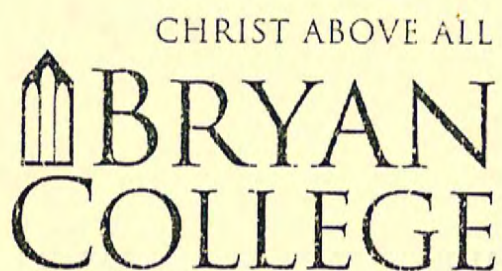


Impact

*THE SCOPES TRIAL, WILLIAM JENNINGS BRYAN,
AND ISSUES THAT KEEP REVOLVING*

Edited by Richard M. Cornelius
and Tom Davis



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Dayton, Tennessee 37321-7000

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Dedication

To our wives, Donna and Susan,
whose love, patience and support
made it possible for us to complete this book

For the 2011 edition

To Dr. Richard M. Cornelius
a teacher, mentor, friend
whose vision inspired this book
and compelled its reprinting

INTRODUCTION

THE TRIAL WHOSE GAVEL WAS HEARD ROUND THE WORLD

This anthology commemorates the seventy-fifth anniversaries of the Scopes Trial, the death of William Jennings Bryan, and the origin of the movement to found William Jennings Bryan Memorial University by considering their impact and continuing major issues.

The impact of *The State of Tennessee vs. John Thomas Scopes* has been rarely surpassed by that of other trials in the history of the world or even by other news stories of the last century. Popularly referred to as the "Scopes Trial" (a designation this book will also follow), it is almost without exception included in surveys of the world's great court cases and in encyclopedias of essential general knowledge. In a "Readers' Choice Top 10 Stories of the Century in East Tennessee" survey conducted by *The Knoxville News-Sentinel* (1 Jan. 2000: sec. M: 1), hundreds of respondents rated the Scopes Trial as #4 (after #1, the Oak Ridge atomic bomb Manhattan Project of 1945; #2, the Dedication of the Great Smoky Mountains National Park in 1940; and #3, the creation of TVA in 1933). In many ways a carnival, the Scopes Trial outranked #5, the 1982 Knoxville World's Fair, and this 1925 legal contest outscored #7, the 1998 national football championship competition won by the University of Tennessee. Any event that can outperform football in Tennessee packs a real impact. Even more impressive was the *George* magazine designation of the Scopes Trial as #4 in a listing of the "100 greatest defining political moments" of the twentieth century (Oct. 1999: 114-129). Scopes was surpassed only by the inauguration of FDR (#1), D-Day (#2), and the FDA approval of the Pill (#3).

Starting off with a big bang in July 10-12, 1925, the fireworks of the eight-day trial drew to Dayton (population ca. 1,800 and county seat of agricultural Rhea County), swarms of news media representatives totaling over two hundred. In the words of twenty-five-year veteran Michael Williams of *The Commonwealth*, "There is a bigger representation of writers, telegraphers, artists, photographers and the other items of the newspaper circus than at any other big story since the naval limitation conference at Washington" (22 July 1925: 262). Notable names abounded both among press representatives—Bugs Baer, Heywood Broun, Watson Davis, Joseph Wood Krutch, H. L. Mencken, Adolph Ochs, Westbrook Pegler—and publications—*Baltimore Sun*, *Boston Globe*, *Chicago Tribune*, *London Times*, *The Nation*, *New York Times*, *Philadelphia Inquirer*, *St. Louis Post Dispatch*. In China twenty-seven newspapers published full daily cable accounts of the Scopes proceedings. Chicago radio station WGN sent a crew and made Scopes the first live national radio broadcast of an American trial. Editions of the *Knoxville Sentinel* were flown to Dayton, resulting in "the first use of aerial navigation for regular newspaper deliveries in Tennessee, if not in the entire country" (*Knoxville News-Sentinel*, 17 July 1960: sec. B: 10).

But quantity does not necessarily result in quality, and the story of the press coverage of the Scopes Trial in 1925 has been in the main a sorry one of superficial sensation, unjustified bias, and inexcusable ignorance or disregard of some of the significant issues at stake and positions held by the principals. Without any proof offered, Bryan was vilified by reporters such as H. L. Mencken, who referred to him as "a charlatan, a mountebank, a zany without shame or dignity" (*Baltimore Evening Sun*, 27 July, 1925; reprinted in *American Mercury*, Oct. 1925, and *Prejudices: Fifth Series*, 1926). Reporters came with preconceived provincial notions or premeditated editorial directives about such matters as small Southern towns, Fundamentalist Christians, the status of the evolutionary hypothesis, and the nature of truth. When a local businesswoman asked one reporter why he did not attend the trial sessions, he replied, "I don't

have to know what's going on; I know what my paper wants me to write." When she asked another reporter about a ludicrous description of Dayton natives he had written, he explained that his editor expected colorful accounts (Interview with Mrs. E. B. Arnold, 4 Aug. 1976).

Unlike most trials, Scopes was a trial of ideas based on a confrontation of worldviews, and in general the members of the press could not or would not handle such heavy philosophizing lest their editors or readers would object. The results were that the trial was mislabeled "Monkey Trial" though the status of mankind's supposed monkey ancestors was not the true central focus. Majoritarian rights of taxpaying parents to have a say in their children's education was shouted down by outcries for libertarian free speech. The academic freedom of students to be taught all major facets of controversial issues was—as usual—ignored in favor of the academic freedom of teachers to declare what they believed. The resolution of the conflicting rights, responsibilities, and interests of state and federal educational jurisdiction, local school boards, school administrators, teachers, parents, and students were not satisfactorily explored. Scopes was attired in martyr's robes rather than in his real-life role suit of a public relations promoter. Biblical religion was portrayed as the intellectually blind, dusty, dated, and dangerous disturber of the peace and progressive programs of the new god of modern, open-minded, intellectual, urbane science.

Some of the weaknesses in the 1925 media accounts could possibly be explained by the pressure of deadlines or excusable ignorance of some of the behind-the-scenes realities, such as the fact that Scopes never really taught evolution. Unfortunately the big bang reporting in 1925 has resulted in intermittent little bangs of feature articles over the years, which for the most part have tended to repeat the errors and misrepresentations of the first generation of Scopes reporters. And many historians have compounded the errors by leaning on the press reports rather than reading the trial transcript and interviewing participants and spectators. For further details regarding the nonlocal press, see the chapter entitled "World's Most Famous Court Trial," and for a survey of local newspaper coverage of the trial that tells a story with some unique additional dimensions, see Wayne Haston's "The Local Scoops on Scopes."

Most trials do well to get a short news story in the local papers. The impact of the Scopes Trial was such that it generated and continues to generate not only more than its share of news stories but also an impressive bibliography of term papers, theses, dissertations, popular magazine articles, academic journal analyses, educational studies for schools and universities, and a list of general market books culminating in Edward J. Larson's *Summer for the Gods: The Scopes Trial and America's Continuing Debate Over Science and Religion*, which was awarded the Pulitzer Prize for History in 1998. With the notable exception of Larson, who is thorough, incisive, and interesting and who strives to be objective, most books on the trial are marred by occasional factual errors and colored by a strong anti-Bryan or pro-evolution bias. The upshot is that readers have to sift through the chaff of misinformation, which leads to faulty interpretations and results in biased opinions and warped conclusions. As antidotes to the problem, this volume includes an overview of the Scopes Trial from the point of view of Donald F. Paine, past president of the Tennessee Bar Association; a summary chapter on the trial from the *History of Rhea County Tennessee*, published by the Rhea County Historical and Genealogical Society; and an essay by Edward J. Larson entitled "The Scopes Trial and the Evolving Concept of Liberty," which is a good representation of Larson's mastery of the breadth of American legal thought and the depth of the philosophical issues relating to the Scopes Trial.

After a case's final adjournment, most trial transcripts collect dust in the courthouse vault. Not so with the Scopes Trial. Within a month of Judge Raulston's closing gavel, Rhea County natives Oren Metzger and William Hilleary published the transcript of the trial from mats used

by the *Chattanooga Times* to print a full stenographic record of each day's proceedings. By the next spring, they had sold 20,000 copies to customers as far away as Russia, China, Japan, and South Africa. The Scopes transcript has been reprinted several times over the years, and the hardbound edition currently published by Bryan College runs to 443 pages.

One last but very significant area of impact which the Scopes Trial had in the realm of books was in the field of science textbooks. This story is told in "How the Scopes Trial Changed Biology Textbooks" by Randy Moore, Professor of Biology at the University of Minnesota and Editor of *The American Biology Teacher* journal.

Somewhat allied to the impact of the Scopes Trial on science textbooks is its impact on subsequent anti-evolution laws and consequent trials, which were sometimes referred to as "Scopes II" cases. The influence was a long, pervasive, and complicated one. From 1925-30, state legislatures considered twenty anti-evolution bills and passed two into law. And this was just the beginning. In reading the accounts of the subsequent trials and their appeals, one wonders at times whether a case was decided on its own merits or on the version of the Scopes Trial reported in the biased newspaper stories and in the Broadway play *Inherit the Wind*. Because the purpose and scope of this seventy-fifth anniversary book do not permit a thorough consideration of such a significant facet of the Scopes impact, this important topic will be treated by listing the major developments in the Scopes Trial Chronology at the end of this book, by calling attention to Edward J. Larson's broad picture of this matter in his essay on "The Scopes Trial and the Evolving Concept of Freedom," by referring the reader to "The Tale of Two Trials," an essay contrasting the 1925 Scopes I Trial with the 1981 Arkansas Scopes II Trial by Norman L. Geisler, who was one of the participants at the latter trial, and by the following summary comments on the 1999 Kansas Board of Education ruling.

The emotional over-reaction of the news media and their biased presentation of the 1999 action of the Kansas Board of Education regarding science standards was reminiscent of similar reporting of the 1925 Scopes case and has resulted in the general public not having an accurate and fair account of what happened. In 1998 the Kansas Board of Education initiated a routine review of science standards. A Science Education Standards Writing Committee was appointed, and in December 1998, it released a draft of the proposed new standards and announced public hearings. Some citizens objected to a few of the standards. When subsequent drafts and hearings did not produce sufficient acceptable changes, a committee of citizens drafted their own standards and submitted them for consideration. Since a compromise could not be worked out after several months, the Kansas Board of Education took the last draft of the Science Education Standards Writing Committee and worked up their own compromise version, which was officially accepted on August 11, 1999, by a vote of 6 to 4.

The compromise version changed less than 5% of the total document. Evolution was neither excluded nor prohibited, but statewide testing on evolution was not mandated. Although reported to the contrary, the final version of the standards tended to favor strongly evolution and excluded direct references to creationism. Changes resulted in more accurate definitions, encouraged more broad-mindedness and openness to engage in critical thinking, allowed for a more balanced and flexible approach that permitted consideration of the worldview of philosophical theism in addition to that of philosophical naturalism, and provided more freedom in how and to what extent evolution would be taught. The revisions protected students from being forced to accept all aspects of evolution as proven facts and permitted students to raise questions about theories, faulty reasoning, and alternative explanations. Two examples of the significant but subtle changes follow:

STATE WRITING COMMITTEE PROPOSED FINAL DRAFT

Students should develop an understanding of the origin and evolution of the dynamic Earth system.

Theory: In science, a well-substantiated explanation of some aspect of the natural world... (e.g., atomic theory, evolutionary theory).

KANSAS BOARD ADOPTED COMPROMISE STANDARDS

Students shall understand the history of the earth.

Theory: in science, an explanation of some aspect of the natural world ... (e.g., atomic theory, evolutionary theory).

Probably the chief factor in the creation and continuation of the Scopes Trial impact was the enunciation of the pertinent principles by an outstanding galaxy of prestigious principals who participated in the trial. The New York-based American Civil Liberties Union began this trial of titans by advertising for a Tennessee teacher to help them test the Butler Act and thus gain recognition for their newly restructured and renamed organization and by sending the brilliant Arthur Garfield Hays to head up their delegation. The entrance of William Jennings Bryan, who accepted the invitation of the local promoters, undoubtedly had the most influence on escalating the trial to major-league proportions since he was a three-time presidential candidate, former Secretary of State, world-renowned orator and writer, and life-long crusader for progressive causes and the rights of the common man. Bryan's involvement prompted Clarence Seward Darrow, America's foremost criminal lawyer, to volunteer his services and to bring along internationally known divorce court lawyer Dudley Field Malone. Meanwhile back in Dayton, law school dean Dr. John R Neal told Scopes, "whether you want me or not, I'm going to be here" (*Center of the Storm: Memoirs of John T. Scopes* 63). Heading up the prosecution for the State of Tennessee was District Attorney General A. T. Stewart, who later became a U.S. senator. Some others assisting Stewart were former Assistant Attorney General Ben G. McKenzie (who had argued a case before the U. S. Supreme Court), Sue K. Hicks (the original Boy named Sue, who later became a judge), and William Jennings Bryan, Jr. In addition to the lawyers on both sides, the defense brought in famous scientists and theologians to testify: Dr. Shailer Matthews, Dean of the Divinity School of the University of Chicago; Dr. Fay Cooper Cole, professor of anthropology at the University of Chicago; Dr. Kirtley F. Mather, chairman of the Department of Geology of Harvard; Dr. Winterton C. Curtis, chairman of the Department of Zoology of the University of Missouri; Dr. Herman Rosenwasser, rabbi linguist from San Francisco; Dr. Maynard M. Metcalf, zoologist from Johns Hopkins, Wilbur A. Nelson, state geologist of Tennessee; Dr. Jacob Lipman, Dean of the College of Agriculture at Rutgers, Dr. Charles Hubbard Judd, Director of the School of Education at the University of Chicago; and Dr. Horatio Hackett Newman, Dean of the College of Science at the University of Chicago. Their testimony was excluded by Judge John T. Raulston from being an official part of the trial proceedings because under the Tennessee statute regarding expert witnesses in a jury trial, it was irrelevant to the single basic question of whether or not Scopes had broken the law. But since the defense was permitted by the Judge to enter the statements of the experts into the record in the absence of the jury for the sake of the appellate court, the presence and testimony of such notables helped underscore the importance of the trial. Throughout the world, the commentaries of even more famous people further enhanced the fame and influence of the trial: Felix Frankfurter, Norman Thomas, George Bernard Shaw, Edgar Lee Masters, Albert Einstein, Dr. Howard A. Kelly, H. G. Wells, Billy Sunday, Luther Burbank, and President Calvin Coolidge.

In recognition of the powerful and prominent personalities associated with the Scopes

Trial both in Dayton and around the world, this anniversary book includes photographs of key trial figures, a listing of all the official participants (in the "World's Most Famous Court Trial" article), a biographical sketch of Darrow by his friend Elmer Gertz—"Clarence Darrow—Legendary Lawyer of American History," a view of Bryan entitled "William Jennings Bryan's Last Campaign" by Stephen Jay Gould—a noted Harvard evolutionist who disagrees with him, Bryan's undelivered summary address at the Scopes Trial—"The Last Message," and three poems by Tennessee anti-evolution law originator—John Washington Butler.

Because of all the Scopes Trial participants William Jennings Bryan has suffered the most at the hands of biased journalistic stories, superficial historical and biographical studies, twisted literary productions, and even the thoughtless misinterpretations of fellow Christians, an overview of Bryan's outlook and activity is a necessity for a fairer and more balanced evaluation of his role in the evolution controversy. Bryan's first published discussion of evolution was in his oration "The Prince of Peace" (1904). In it he raises questions about the evolutionary position, such as its basic starting assumption (Bryan begins by assuming "a Designer back of the design"), its insufficient evidence ("you shall not connect me with your family tree [of monkeys] without more evidence than has yet been produced"), its de-emphasis on the mind and soul ("The mind is greater than the body and the soul is greater than the mind, and I object to having man's pedigree traced on one third of him only—and that the lowest third"), disagreements among Darwinian scientists, and the fact that "Darwinian theory represents man as reaching his present perfection by the operation of the law of hate—the merciless law by which the strong crowd out and kill off the weak" Bryan comments, "I prefer to believe that love rather than hatred is the law of development"

In his personal, political, and religious endeavors up through about 1920, William Jennings Bryan was involved with a long list of activities and programs: raising a family; operating a farm and a law practice; running successfully for Congress two times and unsuccessfully for president three times; leading the Democratic Party for some fifteen years; serving as Woodrow Wilson's Secretary of State and negotiating peace treaties with thirty nations; editing a national newspaper; writing over fifteen books and numerous articles and orations; lecturing some two hundred times a year on the Chautauqua and other circuits as well as at colleges, civic meetings, and various groups of Protestants, Catholics, and Jews; writing weekly Sunday School lessons that were nationally syndicated and reprinted in 110 newspapers; maintaining friendships and a correspondence with scores of famous and common people; and championing a host of progressive causes and reforms (many of which were new, unpopular, and bitterly opposed by Bryan's political enemies or rivals)—woman suffrage, a graduated income tax, direct election of senators, prohibition of liquor, public disclosure of newspaper ownership and the signing of editorials, workman's compensation, minimum wage, eight-hour day, improved conditions for seamen and railroad employees, prohibition of injunctions in labor disputes, public regulation of political campaign contributions, Federal Reserve Act, Federal Trade Commission, Federal Farm Loan Act, government regulations of railroads and telegraph/telephone, safety devices and pure food processing, tariff reform, control of trusts, government control of currency and banking, the initiative, the referendum, establishment of departments of health and education and labor, promotion of public parks, defense of rights of minorities, anti-imperialism, settling of international differences through peaceful arbitration, support of education (including Negro education), strengthening of Latin American relations, helping to found the University of Miami, voting reform, influence on the revision of state constitutions, reform to make the Constitution more easily amendable, promotion of Florida as a good place to live and work, raising endowment fund for the University of Florida, preservation of

conservative theology and leadership at the national level of the Presbyterian Church, support of the American Y.M.C.A. program, and establishment of YMCA's across Canada.

About 1920, Bryan began to turn his attention increasingly to the evolution controversy. Consistent with his lifelong concern with progressive programs to meet the needs of the majority of the people, Bryan initiated his crusade against evolution primarily because of its dangerous ramifications commonly known as Social Darwinism. In *The Memoirs of William Jennings Bryan*, Mary Baird Bryan refers to numerous instances when students or their parents informed the Great Commoner "that the teaching of evolution as a fact instead of a theory caused the students to lose faith in the Bible . . . and later in other doctrines which underlie the Christian religion" (479). As Bryan makes evident in "The Last Message" and other publications, these reports were confirmed by various studies he read. Chief among these was "The Belief in God" and "Immortality," a 1916 publication by Bryn Mawr University psychologist James H. Leuba, whose survey of college students and faculty disclosed an increase of disbelief that was greater among seniors than freshmen and greater among biology professors than other scientists. Bryan concluded that evolution was the culprit, and he was led to make this assumption by two other studies. Edward J. Larson notes that in *Headquarters Nights* (1917), Stanford University zoologist Vernon Kellogg disclosed that World War I German officers justified their instigation of the war as a good thing for the world because of the Darwinian doctrine of "Natural selection based on violent and fatal competitive struggle" (*Summer for the Gods* 40). Again in "The Last Message," Bryan discusses *The Science of Power* (1918) by Benjamin Kidd, who traced the root of Darwinian struggle for existence to the branches of Nietzsche's materialistic philosophy, which "denounced Christianity as the 'doctrine of the degenerate,' and democracy as 'the refuge of weaklings,'" and led to the poisonous fruit of German militarism in World War I. Focusing primarily on the Darwinian explanation for the origin of man and disturbed by the absence of sufficient proofs and the presence of dangerous ramifications regarding countries with disputes, employers and employees with disagreements, and family members with differences, Bryan embarked on a course that had all the earmarks of being reasonable, fair, and balanced. Described by his wife in the *Memoirs* as "a firm believer in the doctrine of complete separation of Church and State," Bryan asserted "that all sects should advance their religion by their own efforts and at their own expense, unaided by the State... He argued that if the power of the State could not be properly used to advance religion, it followed as a matter of course that the power of the State must not be used to attack religion." He believed that such a position was not "an interference with freedom of conscience or freedom of speech, or even with 'academic' freedom" any more than prohibiting a Roman Catholic teacher from teaching Catholicism in the public schools would be. Having enunciated that "a theory which when taught as fact tended to destroy belief in the truth of the Bible," his strategy was "first, to establish the right of taxpayers to control what is taught in their schools; second, to draw a line between the teaching of evolution as a fact and teaching it as a theory; and third, to see that teachers proven guilty of this offense should be given an opportunity to resign." Finally he was concerned "that care must be taken at this point that no religious zeal should invade this sacred domain [of individual religious belief] and become intolerance" (458-460, 485). On many occasions from 1920 to the end of his life, Bryan reiterated this position, carefully spelling it out that he was not against the teaching of evolution as a hypothesis, that it deserved to be thoughtfully considered, and that teachers should not be fined but reprimanded for teaching it as a fact and for attacking the Bible: his address to the Constitutional Convention of Nebraska in 1920; his letters to key people, such as Florida Senator W. J. Singletary; his publications "The Menace of Darwinism," *Seven Questions in Dispute*, *In His Image*, and "The Last Message"; his lectures to such state legislatures as

Kentucky, Florida, West Virginia, and Tennessee; his frequent editorials against evolution in issues of *The Commoner* from 1916-25; his resolution composed for and passed by the Florida Legislature in 1924; his articles in such publications as *The Forum*, *Popular Science Monthly*, *New York Times*, and *Reader Digest*.

Not only has Bryan's position regarding evolution often been misconstrued, but also his actions during the Scopes Trial have usually been misrepresented. Unlike visiting defense attorneys Clarence Darrow and Dudley Field Malone, who did what the ACLU had feared and preempted the vocal leadership of the defense team, visiting prosecuting attorney William Jennings Bryan adhered to the role of an out-of-state counsel and did not begin to take an active vocal role until the fifth day of the eight-day trial. His remarks on this day are distinguished by clever and witty turns of phrases, clear summary of previous points in the proceedings, vivid illustrations, a favorite Bryan device of turning the tables on his opponents and showing their inconsistency (he refers to Darrow's argument in the Loeb and Leopold case, which was the reverse of his argument in the Scopes case in that Darrow recognized the dangers of teaching students the philosophy of Nietzsche, who was influenced by evolution), awareness of problems with Darwinian theory that even other evolutionists reject (e.g., Darwin's idea of sexual selection), careful definitions of terms, and subtle sarcasm colored by an anti-Republican Party gibe that apparently was not grasped by Malone or Mencken about man being classified in an indistinguishable way in Hunter's *Civic Biology* with "3499 other mammals. Including elephants?" (Trial Transcript 175).

Bryan's performance on the seventh day, when he agreed to go on the witness stand and be interrogated by Darrow if he could put Darrow, Malone, and Hays on the stand has been the object of diverse evaluations. Bryan was not legally obliged to take the stand, but he felt personally obligated to bear witness for his Lord. Humanly speaking, it was unwise for Bryan to take the risk of exposing himself to his opponents' questions since he was not prepared but they were. They had even rehearsed handling rebuttal responses to Bryan's answers by having Dr. Kirtly Mather, Harvard geologist and Baptist Bible school teacher, answer as he supposed Bryan might. In addition, they did not intend to go through with the agreement to let Bryan question them on the stand the next day. For about two hours Darrow hammered away at his Christian counterpart with questions ranging over some fifty topics. Many of them seemed repetitious and were perhaps designed to wear down or trip up the Christian Crusader. Some of Darrow's questions were impossible to answer: "Do you know about how many people there were on this earth 3,000 years ago?" Bryan responded, "You ought not to ask me a question when you don't know the answer." Many seemed designed to tempt Bryan to hazard a guess or to interpret Scripture. When Darrow asked, "Did you ever discover where Cain got his wife?" Bryan replied, "No, sir; I leave the agnostics to hunt for her." Had Bryan yielded to the temptation to avoid appearing ignorant by suggesting that perhaps Cain married his sister, Bryan would have opened himself to the accusation of approving incest or interpreting Scripture loosely and then would have been trapped into having to accept the defense's interpretation of Genesis to accommodate evolution.

In the lengthy interrogation, Bryan was careful to define terms, adhere to known Biblical facts, and distinguish between literal and figurative language in interpreting Scripture (thus making a clear and significant distinction between the literal inspiration of all Scripture and the literal interpretation of only the non-figurative part of it). Bryan refused to accept Darrow's paraphrase of Biblical passages but humorously forced the self-proclaimed agnostic to read aloud the passages in question. By turns Bryan was cautious ("The Bible doesn't say, so I am not prepared to say."), clever (when asked if all creatures not on the ark were destroyed, Bryan

replied, "I think the fish may have lived."), crafty (Bryan tried to include in his answers such scientific statements as the Bible's reference to the circularity of the earth), and considerate of scientific theories (Bryan refers to Einstein's theory of relativity and acknowledges that though it would have been "easy for the kind of God we believe in to make the earth in six days," Bryan does not think that the Genesis word for day "necessarily means a twenty-four-hour day"). The drift of questions and their somewhat circumscribed answers tended to portray Bryan as a student of the Judeo-Christian Scriptures and other religions but not of science or ancient civilizations (Trial Transcript 284-303). In spite of the advantages Darrow had in determining the flow of questions, in approximately 70% of the questions and answers Bryan bested Darrow, in about 20% Darrow outshone Bryan, and in about 10% it was a draw. Probably the best rebuttal for the poison pen portraits of Bryan's performance during the Scopes Trial by the press and versions of *Inherit the Wind* is his "Last Message," which he wrote up in the five days he lived after the trial, which surveys many of the points he made during the trial, and which was originally designed to be the summation of the case for the prosecution.

It was undoubtedly good for the cause of true interpretations of the Bible and of science that the Scopes Trial did not debate the claims of each. In 1925 there were no creationist Christians with doctoral degrees in science to come to Bryan's aid, and scientific experts for the defense tended to rely on such evidence for evolution as the Piltdown man and the Java man and were forced to accept the textbook Scopes supposedly used (Hunter's *Civic Biology*), which was blatantly racist and had other serious faults, which Stephen Jay Gould discusses in his essay on "William Jennings Bryan's Last Campaign." As Kurt Wise notes in "The Science Played Again," since 1925 there have been many arresting developments, discoveries, departures, and determinations in the evolutionist and creationist scientific camps.

How many trials in the history of the world—other than the trial of Jesus Christ—have impacted the world of music to the extent of producing many songs? Beginning on the first day of the Scopes Trial and continuing for several years, composers wrote, published, and recorded over fifteen songs about the personalities and issues of the trial. Some were serious and others humorous, but all reflected the impact of the trial on people's emotions, thoughts, and artistic sensitivities. Melvin Wilhoit discusses this facet of the trial in "'You Can't Make a Monkey Out of Me' or Forgotten Voices from the Sticks."

Not only did the Scopes Trial influence the realm of music, but it also impacted the realm of literature, for it led to the production of poems (three of which by John Washington Butler, author of the Tennessee antievolution law, are included in this volume), three novels, countless editorial cartoons (of which two by W. Norman Ritchie are contained in this anthology), a plethora of documentary and narrative films and television programs, and three plays.

Two of the plays about the Scopes Trial have been written for and produced at the annual Scopes Trial Festival in Dayton. The third play—*Inherit the Wind*—has become so famous that it deserves special consideration. Since its publication in 1955, it has continued to be in print, has gone through four Hollywood/television film versions starring outstanding actors, has appeared on Broadway in two different eras, has been a favorite of community and collegiate theaters, and has been studied in schools and universities in such diverse classes as English, history, science, social studies, and theater. So popular and pervasive has been this play that it is very likely most people's knowledge and opinions of the Scopes Trial have been fashioned by it. Ironically, most readers or viewers do not note the authors' preface and stage directions, for Jerome Lawrence and Robert E. Lee clearly state "*Inherit the Wind* is not history" and make other assertions—some subtle and deliberately veiled—to alert the audience to view this play as a parabolic attack on the communistic investigations of Senator McCarthy's committee. In fact, one of the writers

of the 1960 screenplay version of *Inherit*, Nedrick Young, was blacklisted by McCarthy, wrote under the pseudonym of "Nathan E. Douglas," and saw his credits restored only as late as 1997. In "The Truth About *Inherit the Wind*," Carol Iannone points out that Lawrence and Lee's play is not a truthful account of the Scopes Trial. In summary one could say that as an account of what really happened at the Scopes Trial, *Inherit the Wind* is full of sound and fury but is inherently wind.

One positive response to the negative impact of the journalistic coverage of the Scopes Trial was the founding of over one hundred creationist associations, which were a result to varying degrees of the trial: the Religion and Science Association, the American Scientific Affiliation, the Creation Research Society, the Bible-Science Association, the Institute for Creation Research, and Answers in Genesis. In the realm of scientific and historical exhibits, the impact of the Scopes Trial was evident in special displays at such diverse institutions as the Smithsonian, the Chattanooga Regional History Museum, the Deutsches Hygiene Museum in Germany, the American Bar Association Museum, and the Gerald R. Ford Museum.

Lastly the impact of the Scopes Trial is seen in the founding of William Jennings Bryan Memorial University (now called Bryan College). During Mr. Bryan's stay in Dayton at the time of the trial, local citizens and others conceived of the idea of a Christian school named in Bryan's honor. They invited Bryan to inspect various possible sites. Bryan's death five days after successfully concluding the trial gave impetus to the idea, and within two months there was an official organization. Ten of the original nineteen incorporators had Scopes Trial connections, and these included Judge John T. Raulston, District Attorney General A. T. Stewart, Superintendent of Schools Walter White, trial originator F. E. Robinson, and lawyers Wallace C. Haggard, B. G. McKenzie, and J. G. McKenzie. In 1930, despite the Great Depression, when banks failed, companies disbanded, and schools closed, Bryan University began classes in the now-abandoned Rhea Central High School building and utilized Scopes's former science lab. The beauty of a Biblically based, Christ-centered, liberal-arts-balanced education sprang from the ashes of a legal controversy. And as graduates of Bryan College go forth to fulfill the college mission statement as "servants of Christ to make a difference in today's world," the impact of William Jennings Bryan and the Scopes Trial continues to be felt.

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Unless otherwise noted, photographs are from the Robinson Collection in the Bryan College Archives. Editorial cartoons are from the W. Norman Ritchie Collection in the Bryan College Archives.

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Technical Notes

Cover design and back cover photograph by Tom Davis. Front cover modern picture of the Rhea County Courthouse by Richard M. Cornelius.

The editors have followed MLA guidelines for notes, with exceptions in the legal and scientific articles, where styles were copied from the original documents, with some modifications for clarity.

Tom Davis is Director of Public Information at Bryan College and a former chairman of the Scopes Festival, held annually the third weekend in July. He serves as the college liaison to the festival steering committee.

John Washington Butler

John Washington Butler was the author of the bill bearing his name, which became the Tennessee anti-evolution law that resulted in the Scopes Trial. Butler taught school for five years but primarily was a farmer as well as being a representative to the state legislature from his district. A faithful church attender and a family man with five children, he became disturbed about the dangers of teaching evolution when he heard of a young woman from a nearby town who had gone away to college and come back believing in the theory of evolution and as a result rejected her religious heritage. He drafted his bill with the intent of keeping religious beliefs separate from the publicly supported educational system, and this included insuring that the theory of evolution be taught only as a theory. He himself exposed his children to the writings of Charles Darwin.



Immortality

By John Washington Butler

This poem was written on Christmas Day 1929 and was published in the Macon County, Tenn., Times

Immortality! Who can estimate
The peace of belief in a future state?
The joy of the thought, from the dead to rise,
To live forever beyond the skies?

The Father's touch of power divine
Makes the stars and sun to brightly shine,
So His voice, whenever it calls,
Will burst the graves, the prison walls,

The bush whose blossoms float upon the breeze
Is not dead, though it may freeze,
And when the days of winter are o'er,
It will bloom again as it did before.

The words of hope to the sons of men,
Ring in our ears, "We shall rise again"
The soul is immortal and will not die,
Preserved by the power beyond the sky.

It's as sure that we live always,
As it is that we live today,
The bursting rosebud, the sparrow's fall
The Great Eternal sees it all.

When eternal spring shall roll around,
Immortality, sweet hope of the soul,
Will be ours while eternal ages roll.



William Jennings Bryan, left, spent nearly two hours on the witness stand on the seventh day of the Scopes Trial, answering questions on a variety of topics posed by Clarence Darrow. That session of court was moved to the courthouse lawn because of the heat and the size of the crowd.

STATE OF TENNESSEE V. JOHN SCOPES

By Donald F. Paine

Donald F. Paine is a past president of the Tennessee Bar Association and a partner in the Knoxville firm of Paine, Tarwater, Vickers, and Tillman. He was elected to membership in the American College of Trial Lawyers and the American Law Institute. Paine lectures for the University of Tennessee College of Law, the Tennessee Law Institute, the BAR/BRI Bar Review, and the Tennessee Judicial Conference. He is reporter to the Supreme Court Advisory Commission on Civil Procedure and a regular columnist to the Tennessee Bar Journal. This article is a slight revision of a feature in the Tennessee Bar Journal bicentennial issue celebrating "200 Years of Tennessee Law" (32, May/June 1996, '32-34), and it is reprinted with permission.

On May 5, 1925, the high school year at Dayton had ended. Several citizens were gathered at Robinson's drugstore, which also doubled as a distribution point for school textbooks. Among those was Hunter's *Civic Biology*, the prescribed text in Tennessee for the past several years. It contained a chapter on the doctrine of evolution.

Earlier that spring, however, the General Assembly had passed the Butler Act. It punished public school teachers who taught "that man has descended from a lower order of animals" or any theory "that denies the story of the Divine Creation of man as taught in the Bible." The sanction for this misdemeanor was a minimum fine of \$100 and a maximum of \$500.

The drugstore cowboys decided to test the constitutionality of the act, egged on primarily by George Rappleyea—a transplant from New York City. But who should be the guinea pig? "What about John Scopes?" He had taught science at the high school for the past year, served as athletic coach, and seemed an accommodating and affable fellow. The assemblage deputized a kid to fetch Scopes from the tennis court.

Upon arrival, Scopes said that he had indeed taught the evolution chapter in Hunter's book while substituting for an ailing colleague toward the end of the school term.¹ He further allowed as how science teachers couldn't ignore evolution and that all current textbooks espoused the theory. A hasty indictment was concocted, and Scopes became a citizen accused. Numerous special counsel weighed in to assist General A. T. Stewart for the State, notably William Jennings Bryan. Clarence Darrow volunteered for the defense, assisted by Dudley Field Malone and the ACLU's Arthur Garfield Hays. Local counsel was John R. Neal, dean of his own law school in Knoxville—having been fired by the U.T. College of Law. Judge John Raulston of Winchester presided over a special term for this eight-day trial, July 10-July 21.

His Honor opined during a moment of judicial frustration that "this ain't no circus." Yet, it was precisely such. Vendors, preachers, journalists, and assorted mountebanks descended upon Dayton in hordes. Extra constabulary had to be imported from Chattanooga. Cameras were freely permitted in the courtroom, the judge being somewhat of a ham.²

The U.T. Law Library has the transcript of evidence.³ That document discloses the following antics of some surviving interest to the legally curious.

Court opened each morning with a prayer. Darrow publicly objected on the third day. Judge Raulston overruled the objection but delegated the local pastors' association to select men of the cloth on a daily rotation.

Lest we believe that incivility amongst counsel is an altogether recent phenomenon, try this on for size:

Mr. Hays—I insist on making this motion.

Gen. Stewart—I am making my exception to the Court; will you please keep your mouth shut?

What version of the Bible is meant by the statute? The State introduced the King James

Version, whereupon Darrow raised questions about the lack of authenticity because the copy wasn't certified.

Darrow got in trouble with the judge and narrowly avoided jail. Difficulty arose when Darrow wanted to make an offer of proof concerning the scientific testimony that the court excluded from evidence. Tense dialogue escalated to this point:

The Court—I hope you do not mean to reflect upon the Court.

Mr. Darrow—Well, your Honor has the right to hope.

The Court—I have the right to do something else, perhaps.

Judge Raulston did do something else. After simmering all weekend, he opened court on Monday with a citation for contempt and a \$5,000 bond pending sentencing. Darrow apologized after lunch, and the judge withdrew the citation.

The session was adjourned to the yard outside for fear that the courthouse floor might not hold the multitude. After a squabble over removing a “Read your BIBLE” sign from the jury’s view, the most notorious part of the trial began. The defense called Bryan to the stand.

Nonlawyers commonly know only of this portion of the event. The play and movie, *Inherit the Wind*, deals with little else. Lawyers will realize how insignificant the vaudeville display was, as the jury was more or less out—quarantined about 50 feet away—and the examination was ultimately “expunged” from the record.

The defense brought proceedings to an abrupt halt, essentially asking for a guilty verdict. Closing arguments were waived. The twelve tried and true supposedly dallied with the jury nullification concept. John Scopes was, after all, the coach, a quasi-ecclesiastical office in Tennessee. The court had charged the jury that, if it found Scopes guilty, it could leave punishment to the court. Accordingly, the jury returned a guilty verdict without setting the fine; Judge Raulston set the minimum \$100 fine. The judicially imposed punishment turned out to be the fly in the ointment, as we shall see.⁴

But an interesting post-trial development merits mention. Recall that local counsel was Dean John R. Neal. The foreign lawyers left it to him to get the transcript of evidence (formerly the bill of exceptions) filed, Judge Raulston had allowed 30 days in the order overruling the motion for a new trial. Neal failed to file the bill of exceptions on time. The report at 152 Tenn. 424 (1925) discloses that the Justices held the transcript untimely.

What then was left? Only the bare bones record was available for appellate debate. Unless the statute was facially unconstitutional or unless the punishment was invalid, there was nothing for review. A majority of the justices in the second report at 154 Tenn. 105 (1927) held only the punishment illegal.⁵ The Tennessee Constitution, Article VI, Section 6, prohibits a judge from setting a fine exceeding \$50. One problem, of course, is that the statutory minimum was \$100. Judge Raulston was the one who fouled up; he should have instructed the jury to set the fine.

Chief Justice Grafton Green admonished the State to *nolle pros* the case, commenting: “The court is informed that the plaintiff in error [Scopes] is no longer in the service of the state. We see nothing to be gained by prolonging the life of this bizarre case. On the contrary, we think the peace and dignity of the state, which all criminal prosecutions are brought to redress, will be the better conserved by the entry of a *nolle prosequi* herein. Such a course is suggested to the Attorney General.”

So ended the travesty. California has its shameful Menendez and Simpson debacles. We have the Scopes Trial. God save this Honorable Court, the United States, and the Sovereign State of Tennessee.⁶

Notes

1. An extraordinarily knowledgeable student of the trial, Dr. Richard Cornelius of Bryan College in Dayton, tells me that Scopes never taught evolution and that trial perjury established this crucial element of offense.
2. Many photographs are in the special collections room of the U.T. Library, having been donated by one of the prosecutors, Sue Hicks. He later became a judge. Others are in the Bryan College archives.
3. Bryan College has also published the full trial transcript. It is available for \$36.00 through the college bookstore, Bryan College, P.O. Box 7000, Dayton, TN 37321-7000.
4. To his credit, General Stewart tried to extricate the judge from this situation following the charge, but the latter was clueless.
5. The Chief Justice's opinion for the court found no facial invalidity despite multiple assaults under the state and federal constitutions. Justice McKinney wrote a dissenting opinion, opining that the Butler Act was void for vagueness.
6. Those with an appetite for this stuff will find a legion of sources in libraries. Among the more useful to this writer were the following, all available at the U.T. College of Law Library:
Grebstein (ed.), *Monkey Trial*, KF224.S3G74—contains most of trial transcript. Tompkins (ed). *D-Days at Dayton*, KF224.S3T6—includes reflections of Scopes circa. 1965. L. Sprague de Camp. *The Great Monkey Trial*, KF224.S3D4—a good general account of trial, as well as of preceding and subsequent events. Francis, Joyce, "Creationism and Evolution," published in the *Tennessee Law Review* 63.3, Spring, 1996.

Debt to a Tadpole

By John Washington Butler

One little germ in the bottom of the sea,
Generated itself spontaneously,
Which afterwards grew bones and marrow,
And finally became "Dangerous Darrow."

Everything is its own creator;
Man is his own originator.
He started in the sea as a single cell,
Evolving from form to form, it's hard to tell.

So hush, little bed bug, don't you cry.
You'll be a June bug by and by.
And later a million years or more,
You'll be a college sophomore.

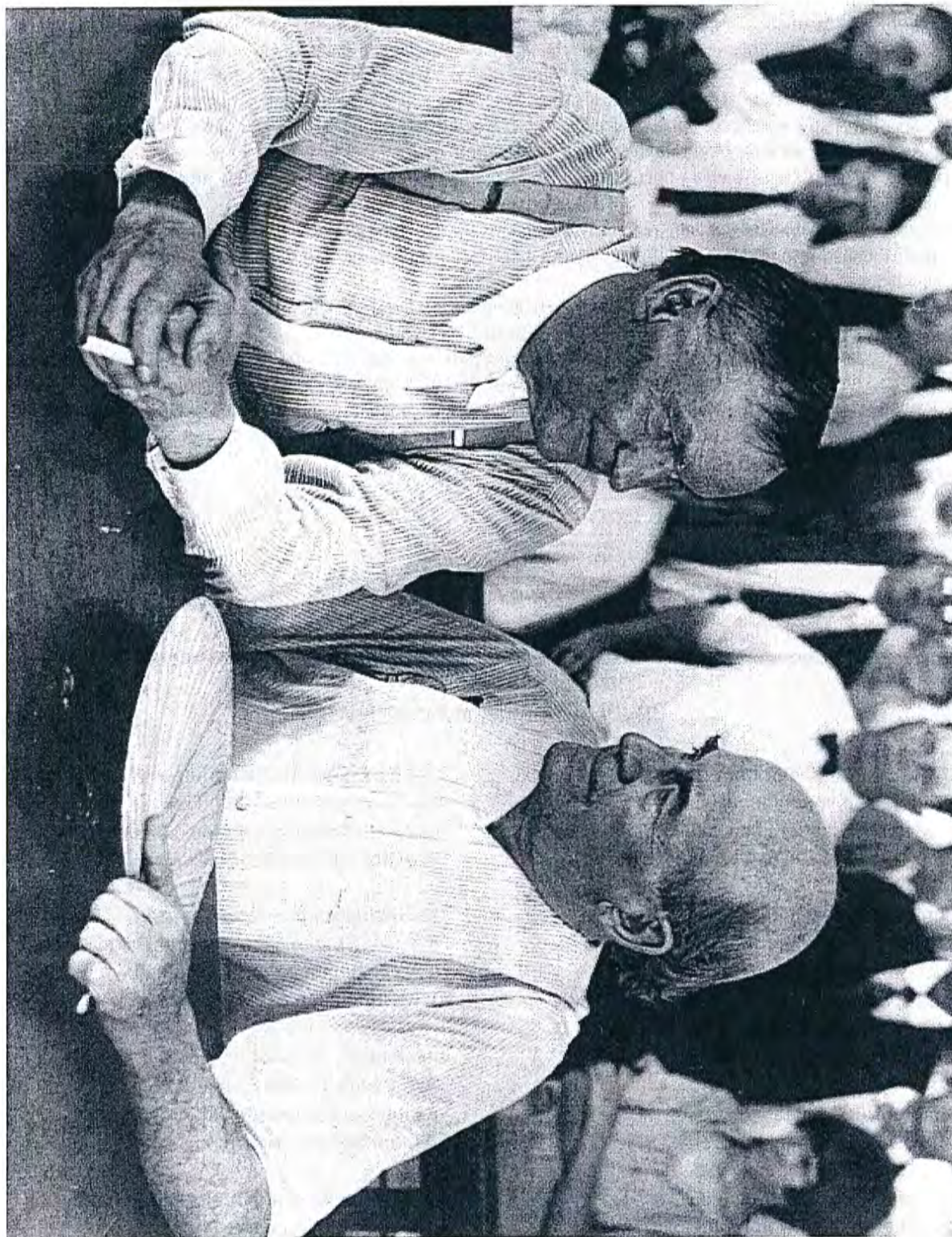
So why should skunk envy man?
For by the grand evolution plan,
He should look forward with hopes
Of being a teacher like Professor Scopes.

Or be a lawyer with cunning ways;
Like Mr. Arthur Garfield Hays,
To give Christianity a crooked deal,
Assisted by Dr. John R. Neal.

Evolutionists are so very wise,
They solve the mysteries of the skies.
They rob humanity of future hope
By filling them full of Darwin dope.

June bugs, tadpoles, turtles and frogs,
Are all our kinfolks, so are the dogs,
Monkeys, baboons, gorillas and apes -
All our cousins in different shapes.

When you were a tadpole, and I were a fish,
We had all the fun one could wish.
But, Dear Reader, this is one monstrous lie,
It is what Evolutionists say, NOT I.



Clarence Darrow, left, and William Jennings Bryan, two former political allies, found themselves on opposite sides of the legal and religious questions raised by the Scopes Trial. Corbis/UPI Photo.

WORLD'S MOST FAMOUS COURT TRIAL

By Richard M. Cornelius

Richard M. Cornelius is Emeritus Professor of English and Bryan/Scopes Liaison Officer at Bryan College. He has written, edited, designed, and published over twenty articles, booklets, books, and audiovisual materials relating to William Jennings Bryan and/or the Scopes Trial. In addition he has lectured to varied groups and served as a consultant for numerous hooks, articles, museum exhibits, and radio and television programs in the U.S. and Europe. This article is an updated version of the chapter on the Scopes Trial in the History of Rhea County, Tennessee, compiled by Bettye J. Broyles and published by the Rhea County Historical and Genealogical Society (Dayton, 1991), and it is reprinted with permission.

By far the most celebrated court case in Rhea County and perhaps in all of Tennessee history was the case of the State of Tennessee vs. John Thomas Scopes, which took place in Dayton's Rhea County Courthouse 10-21 July 1925. For the most part, the trial has been misrepresented and misinterpreted by journalists at the time of the trial and ever since, by historians who depended on the journalists more than on the official records and actual participants, and by audiences of the play, film, and television versions of *Inherit the Wind*, who rarely read the authors' disclaimer in their preface: "*Inherit the Wind* is not history" (Lawrence and Lee ix).

The transcript of the trial, however, has been readily available since 1925 in *The World's Most Famous Court Trial*, which was originally arranged for publication by William Hilleary and Oren Metzger of Spring City, and is currently obtainable from Bryan College. This book, now in its third edition, contains an accurate version of the official stenographic transcript of Circuit Court document Number 5232, as well as other materials pertaining to the case.

The Scopes Evolution Trial was a world-class event in its day, and it continues to attract inquiries and visitors from all over the United States and many parts of the world. It has become the benchmark for subsequent trials dealing with similar problems which are usually dubbed "Scopes II" by the press. The significance of the trial was officially recognized in 1977, when the 1891 Rhea County Courthouse was designated a National Historic Landmark by the National Park Service, and in 1979, when a one-million-dollar courthouse restoration and Scopes Trial Museum project was completed.

"Why Dayton - of all places?" This question, asked by many, is answered directly or indirectly in a 28-page booklet of the same title produced in 1925 by F.E. Robinson and W.E. Morgan. In purple prose, the publication addresses "champions of the survival of the fittest" and "followers of the lowly Nazarene" and alludes to the complex religious and philosophical issues involved in the trial. Currently these can be summarized as Darwinian theory vs. Biblical theology, academic freedom of teachers vs. that of students, governmental rights vs. those of parents, and First and Fourteenth Amendments clauses covering freedom of speech, establishment of religion, and personal liberty. The booklet also evaluates the political genesis of the trial and especially the mixture of politics and religion that occurred when William Jennings Bryan lectured in Nashville on "Is the Bible True?" a year before the legislature discussed the evolution question (Robinson 3, 11). Several hundred copies of Bryan's lecture were sent on two occasions to the legislators (Russell 183). One of the recipients was Representative John Washington Butler, who originated House Bill 185, which stated, "That it shall be unlawful for any teacher in any of the Universities, Normals, and all other public schools of the State which are supported in whole or in part by the public school funds of the State, to teach any theory that denies the story of the Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals." The bill was passed in the lower house by a vote of 71 to 5 on 28 January 1925; was approved by the senate 24 to 6 on Friday, 13 March 1925; and was signed into law by Governor Austin Peay on 21 March 1925, becoming Chapter 27 of the Public Acts of

Tennessee for 1925. Violation of the act was considered a misdemeanor and subject to a fine of \$100-\$500 for each offense (Grebstein 1, 3).

In addition to the philosophical, religious, and political facets, the Robinson and Morgan booklet cites two somewhat related reasons for "Why Dayton - of all places?" The first was a response to an American Civil Liberties Union offer to test the new law that was on the part of the Dayton movers and shakers a "half playful, half serious" plan to "start something and maybe it would be interesting." The second was a serious economic affirmation: "Dayton would be woefully remiss in her duty to herself not to grasp this hour of her lime-light incandescence and make of it an occasion for self-aggrandizement with some incontrovertible facts about her products and natural resources." Supported by ten pages of pictures, the booklet extols the agricultural advantages of the Dayton area and then states, "Dayton bids for new Industries with advantages second to none" (Robinson 14-27).

The above-mentioned two streams of thought converged in the mind of one man: George W. Rappleyea, a metallurgical engineer who had come to Tennessee from New York City, married a Dayton girl, and was managing the ailing Cumberland Coal and Iron Company in Dayton. When Rappleyea read his 4 May 1925 issue of the *Chattanooga Daily Times*, he saw an article that had the potential of ending Dayton's economic drought and bringing a rain of economic benefits. Rappleyea took the paper and headed for Robinson's Drug Store. Frank Earle Robinson, who called himself "the hustling druggist," was the chairman of the Rhea County School Board and a man of civic vision and activity.

Rappleyea showed Robinson the article, which contained an announcement from the New York headquarters of the ACLU that said, in reference to the new Tennessee anti-evolution law, "We are looking for a Tennessee teacher who is willing to accept our services in testing this law in the courts. Our lawyers think a friendly test can be arranged without costing a teacher his or her job" (Allem 56, 58: "Plan" 5).

Accounts compiled over 30-45 years later by various researchers interviewing Robinson, Rappleyea, Scopes, and others disagree so much on specific details that they can be harmonized only on major points. It is at least clear that by May 5th the following met with Doc Robinson at his drug store to discuss a possible test case of the evolution law: Rappleyea, Superintendent of Schools Walter White, lawyer Wallace C. Haggard, city attorneys Herbert B. Hicks and his brother Sue K. Hicks (the original "Boy Named Sue" of the Johnny Cash hit), and John Thomas Scopes. Since the regular biology teacher, W.F. Ferguson, refused to be a part of a test case, Scopes was asked to help even though he was the football, basketball, and baseball coach and taught math, physics, and chemistry. At least he had substituted for a few days in biology class when Ferguson was sick, but Scopes confessed, "I wasn't sure I had taught evolution." He agreed, however, to help. A warrant was sworn out, the press and ACLU were notified, and law school dean and Rhea County native Dr. John R. Neal made his services available to Scopes (Allem 58-64; de Camp 7-16, 433; Scopes 56-65).

Through the efforts of the press, the World's Christian Fundamentals Association, and the Dayton court choreographers, William Jennings Bryan announced on May 13th that he was willing to participate in the trial without remuneration (Larson 60-61; Ginger 23; Allem 63). Because he was a former Secretary of State, three-time presidential candidate, leader of the Democratic Party for some fifteen years, popular silver-tongued orator of the Chautauqua circuit, and famous spokesman for Christian fundamentalist ideas, Bryan's arrival on the scene raised the trial to major-league status and broadened the issues.

The day after Bryan's announcement, Clarence Seward Darrow, America's most famous criminal lawyer, was urged by journalist H.L. Mencken to offer without charge his services to Scopes: "Nobody gives a damn about that yap schoolteacher. The thing to do is to make a fool

out of Bryan." By the end of the week, both Darrow and his friend Dudley Field Malone had wired Dr. Neal of their availability. Neal and Scopes were delighted, but the ACLU was not. Darrow was radical and sensational, and Malone did not have the best public image, being an international divorce lawyer and a divorced, backslidden Catholic (de Camp 74, 78-80, 89-92; Fecher 199; Scopes 71-73).

The next eight weeks were marked by a mixture of serious legal maneuvers and comic interludes. Chattanooga leaders tried unsuccessfully to get the trial. Dayton leaders countered successfully by recalling Scopes from vacation in Kentucky, speeding up the legal process by two months, and arranging for two fake fights to maintain media interest. On July 2nd in New York, the defense planned their strategy, which included broadening the argument to pit science against Fundamentalism and sacrificing Scopes' acquittal for the opportunity to appeal a verdict of guilty to a higher court in the hope that the Monkey Law would be declared unconstitutional (Allem 65-69, Scopes 69, 74-76; de Camp 130-131).

Back in Dayton the population swelled from about 1800 to about 5000 at the height of the trial. There was an increasing carnival atmosphere: refreshment stands, monkey souvenirs, eccentricities such as "John the Baptist the Third," and oddities such as Joe Mendi, the trained chimpanzee. And then there were the media people: three news services and 120 reporters, whose stories totaled about two million words and whose ranks included H.L. Mencken, Joseph Wood Krutch, and Westbrook Pegler, 65 telegraph operators, who sent more words to Europe and Australia than had ever been cabled about any other American happening; and Quin Ryan and the radio crew from the Chicago Tribune's WGN, who did the first live national broadcast of an American trial (de Camp 116, 147, 161-164, 171; Ginger 66; *Trial* 316).

The official chief counsel for the defense was Dr. John R. Neal, and he was ably assisted by Clarence Darrow, Dudley Field Malone, Arthur Garfield Hays (ACLU representative, agnostic, Malone's partner in international divorce cases), W.O. Thompson (Darrow's law partner and replacement for Bainbridge Colby, who resigned the day before the trial began), and F.B. McElwee (former student of Neal and replacement for John L. Godsey, who resigned the first day of the trial after being active in the planning and preparations). In addition, the defense had as librarian and Biblical authority Charles Francis Potter (Modernist Unitarian preacher) (Scopes 65, 91-92; de Camp 126, 166, 172-173).

In charge of the prosecution was A.T. Stewart (Attorney General for the Eighteenth Judicial Circuit). Serving with him were William Jennings Bryan, William Jennings Bryan, Jr. (Bryan's son from Los Angeles), Ben O. McKenzie (former Assistant Attorney General from Dayton), J. Gordon McKenzie (Ben's son and a former judge), Sue K. Hicks (from Dayton), Herbert B. Hicks (Sue's brother), and Wallace C. Haggard (F.E. Robinson's brother-in-law) (de Camp 124, 125; Allem 59).

Those officiating and assisting at the trial were under much pressure because of the significance of the issues, the importance of some of the lawyers, the hot July weather, the presence of the media, and the crowded conditions of the courtroom, which was built to seat about 400 but had about twice that number seated and standing. The presiding judge of the Eighteenth Judicial Circuit Court was John Tate Raulston, who lived in Winchester and was a devout Baptist. Helping to maintain law and order were Sheriff Robert "Bluch" Harris, officer Jim Mansfield, and – on loan from the Chattanooga Police Department – Captain Marion Perkins and four of his men, one of whom, Kelso Rice, Judge Raulston chose to be Bailiff. The court reporter was Mrs. McCloskey of the McCloskey firm; and the boy who chose the jury names was Tommy J. Brewer (de Camp 83-84, 120, 161, 209-210; Gorman 2; Allem 73, 76; *Trial* 21; Harris).

The trial began on Friday, 10 July 1925, with Judge Raulston calling on the Reverend Lemuel M. Cartright to open in prayer. Because Judge Raulston had been so eager to get the case

that he had allowed Scopes to be indicted on May 25th by a grand jury whose term had expired, the judge convened another grand jury to indict Scopes a second time (Ginger 129). Eight prospective jurors were examined and excused for various reasons. In the order of their appearance, the following were selected for the jury: W.F. Roberson (farmer, no church affiliation), J.W. Dagley (farmer, Methodist), James W. Riley (farmer, Baptist), W.G. Taylor (farmer, Southern Methodist), R.L. Gentry (farmer and teacher, Baptist); Jack R. Thompson (jury foreman, former U.S. Marshall, farm owner, Methodist), W.B. Smith (farmer, Baptist), Jess R. Goodrich (shipping clerk, Campbellite Disciples of Christ), John H. Bowman (farmer and cabinet maker, Methodist Episcopal), William G. Day (farmer, Baptist), R.L. West (farmer and carpenter, Baptist), and John S. Wright (farmer, Baptist). (*Trial* 3-44; de Camp 216).

On the second day, Monday, July 13th, the Reverend M.H. Moffett was asked to lead in prayer. The indictment was discussed at length, and a motion by Dr. John R. Neal to quash it failed. Because of legal technicalities regarding the question of the law's constitutionality, the jury was retired for most of the session. The prominent speakers on this day were Dr. Neal, General Stewart, and Clarence Darrow, the last of whom concluded the day with a speech on freedom that takes up 13 of the 42 pages of the trial record for this day. Ironically, Darrow's basic point agreed in theory and practice with Bryan and Butler, the author of the evolution bill (*Trial* 74-87; Olasky 10; Smith 183-184; Levine 263; Davidson 197).

When Judge Raulston called on the Reverend Dr. A.C. Stribling to begin in prayer on the third day, Tuesday, July 14th, Clarence Darrow objected to the practice and to the jury being present at the discussion of the matter. After heated discussion on both sides, the judge overruled in favor of opening the court with prayer. Court was then adjourned for much of the day in order to allow the judge to formulate a decision regarding the question raised on day two about the constitutionality of the law and the motion to quash the indictment.

On Wednesday, July 15th, the fourth day of the trial was opened in prayer – despite the defense's objection – by the Reverend Dr. Charles Francis Potter, the Unitarian minister from New York who assisted the defense as an expert on religion. Judge Raulston then read his lengthy and carefully worded decision about the motion to quash the indictment. Finding the indictment adequately clear and the law appropriate in its relation to freedom of thought and expression, Raulston overruled the motion. In the afternoon session, Scopes pleaded not guilty. Next, Dudley Field Malone set forth the defense's position on the law, evolution, science, the Bible, and religion. "The defense contends that to convict Scopes the prosecution must prove that Scopes not only taught the theory of evolution, but that he also, and at the same time, denied the theory of creation as set forth in the Bible," Malone stated. Then he asserted, "While the defense thinks there is a conflict between evolution and the Old Testament, we believe there is no conflict between evolution and Christianity" (*Trial* 113, 117).

Testimony was then taken from Superintendent of Schools Walter White; school board chairman F.E. Robinson; and two of Scopes' students, Howard Morgan and Harry Shelton. Scopes at the time of the May 25th hearing and Darrow at the time of the trial both coached some of the prospective student witnesses on the details of evolution so they would appear to have learned the subject from Scopes. Darrow, in fact, roomed at the home of one witness, Howard Morgan (Allem 66; de Camp 432-433; Scopes 134). In the entire long trial, these were the only witnesses whose testimony was part of the official record. Scopes was not called to the witness stand because, as Darrow explained to Judge Raulston, "Your honor, every single word that was said against this defendant, everything was true" (*Trial* 133). Ironically Scopes could have avoided a criminal trial with its possible conviction and loss of a job by taking advantage of his status as a professional educator, questioning the constitutionality of the anti-evolution law, and asking for a declaratory judgment (Larson 60).

In number of days but not in dramatic and legal high points, the trial was at the fifth-day halfway mark on Thursday, July 16th, when the Reverend Dr. J.A. Allen of Nashville was named to open the court session with prayer. Attorney General Stewart moved "to exclude the testimony of the scientists" because it would be irrelevant since Scopes admitted he taught that "man descended from a lower order of animals." William Jennings Bryan, Jr., then argued that the motion was crucial, for it could screen out mere opinions from experts, and it agreed with Tennessee law, which held that experts "will not be permitted to state their opinions upon any point the jury has to decide." Arthur Garfield Hays responded that experts were necessary to determine what kind of evolution Scopes taught and what its relationship was to the Biblical account of creation. Sue Hicks, B.G. McKenzie, Darrow, and Neal joined the heated discussion. After four days of virtual silence, William Jennings Bryan spoke out by turning the pages of Scopes' alleged textbook, George Hunter's *Civic Biology*, noting that it was thick on broad generalizations and thin on supporting evidence. Bryan then turned the tables on Darrow by using against him his argument in the Leopold and Loeb murder case. Darrow had said, "it is hardly fair to hang a 19-year-old boy for philosophy that was taught him at the university." Since the philosophy under discussion was that of Nietzsche, who was greatly influenced by Darwin, Darrow's reasoning illustrated Bryan's point about the dangers of evolution being taught to the exclusion of the Bible (*Trial* 147, 150-152, 154, 170-182).

Following Bryan's speech, Dudley Field Malone made an address on truth that got a good response from the audience, including Bryan (Scopes 154-155; Ginger 122). But Malone demonstrated "more of emotional appeal than of solid reasoning" (de Camp 343), for he was inconsistent in his definitions, resorted to many fallacies, and presented a one-sided view of evolutionists and creationists (*Trial* 183-189). Legal technicians Stewart and Hays finished out the day of stirring speeches by debating on principles of interpretation. Stewart pointed out that the intent of the legislature rather than individual words such as and in the Butler Bill was the rule in Tennessee for interpretation (*Trial* 194).

After calling for Rabbi Jerome Mark and getting no response, the court invited the Reverend Dr. C.G. Eastwood to pray before the sixth and shortest day of the trial, which was on Friday, July 17th. Judge John Raulston began by summarizing in clear and careful detail the arguments of the prosecution and the defense on the important matter of the admission of expert testimony presented the day before. Then he sustained the motion of the attorney general to exclude expert testimony. After a lengthy discussion, Raulston agreed to allow the defense to include the expert testimony (but in the absence of the jury), to read it into the record (though the judge and the prosecution preferred that time be saved by simply submitting it in written affidavit form), to protect it from cross-examination (though Bryan requested this privilege), and to give the defense a recess of the rest of the day to prepare documents that the defense lawyers could read into the record (though the judge preferred direct dictation from the witnesses, and the prosecution was unhappy at losing so much time). In spite of these concessions, Darrow was so frustrated at seeing the defense lose "every major point of contention" (English 7) that he insulted Judge Raulston and accused him of bias for the prosecution and against the defense. When the judge said, "I hope you do not mean to reflect upon the court?" Darrow replied, "Well, your honor has the right to hope" (*Trial* 204-207). The evaluation of trial historian L. Sprague de Camp is that "The record shows Raulston had upheld the defense, if not quite so often as the State, on at least a reasonable number of occasions. But he had ruled for the State on all the really big questions" (de Camp 355). Scopes wrote later that the words and actions of Darrow were such that "everyone expected Raulston to hold him in contempt of court" (Scopes 160). But without comment at 10:30 a.m., the judge dismissed the court until Monday.

Though there had been some dramatic and interesting spots, the trial proceedings up to

this point had been long, technical, and uninteresting to the average layman. The worldwide audience coverage continued, but the audience in and about the courtroom began to thin out. On Saturday, July 18th, the exodus began: the WGN radio crew packed up; H.L. Mencken left for Baltimore (not too far ahead of a group of men who were considering running him out of town on a rail for his references to Daytonians as “morons” and “gaping primates”); Darrow’s law partner and defense assistant W.O. Thompson headed to Florida, W.J. Bryan, Jr., returned to California, and according to Scopes, “Many of the army of newspapermen had evidently deserted” (de Camp 360-361, 344-345, 440; Ginger 113, 124; Scopes 162).

Monday, July 20th, the seventh day of the trial, began hot and was to get hotter both in weather conditions and word confrontations. The opening prayer was delivered by the Reverend Standefer. Attorney General Stewart had brought the significance of Darrow’s remarks on Friday to Judge Raulston’s attention, and the judge announced that he was citing Darrow for contempt of court, setting the bail bond at \$5000 (Scopes 162).

After lengthy discussion taking up ten pages of the court record and similar to that on day six, Arthur Garfield Hays was finally permitted to summarize and read verbatim into the record twelve written testimonials of the scientific and Biblical experts the defense had congregated. The reading took the rest of the morning and part of the afternoon. In order of presentation, statements from the following were inserted in the record but not as an official part of the trial as far as the jury and cross-examination were concerned but as indications of what the defense proof would have been, should the case go to a higher court in the appeal process: (1) Rev. Walter C. Whitaker, rector of St. John’s Episcopal Church, Knoxville; (2) Dr. Shailer Matthews, Dean of the Divinity School of the University of Chicago; (3) Dr. Fay Cooper Cole, professor of anthropology, University of Chicago; (4) Dr. Kirtley F. Mather, chairman of the Department of Geology of Harvard University; (5) Dr. Winterton C. Curtis, chairman of the Department of Zoology of the University of Missouri; (6) Dr. Herman Rosenwasser, rabbi linguist from San Francisco; (7) Dr. H.E. Murkett, pastor of First Methodist Church in Chattanooga; (8) Dr. Maynard M. Metcalf, zoologist from Johns Hopkins University; (9) Wilbur A. Nelson, state geologist of Tennessee; (10) Dr. Jacob Lipman, Dean of the College of Agriculture at Rutgers; (11) Dr. Charles Hubbard Judd, Director of the School of Education at the University of Chicago; (12) Dr. Horatio Hackett Newman, Dean of the College of Science at the University of Chicago. The documents ranged from one to eighteen pages. Each expert gave detailed “proofs” of evolution in his area of expertise and then concluded with a statement so similar in its outlook that it could have been composed in the same law office. Dr. Charles H. Judd’s version of the motif is as follows: “In my judgment it will be quite impossible to carry on the work in most of the departments in the higher institutions of the state of Tennessee without teaching the doctrine of evolution as the fundamental basis for the understanding of all human institutions.” Three scientists cited such “proofs” of evolution as the Java man (now questionable evidence) and the Piltdown man (now exposed as a hoax). Dr. Newman concluded the testimony by saying, “The evolution principle is thus a great unifying and integrating scientific conception” (*Trial* 238, 251, 232, 280).

In between the statements by Dr. Curtis and Dr. Rosenwasser, the court recessed for lunch. Judge Raulston inspected cracks in the first-floor ceiling caused by the weight of the crowd upstairs. Stewart conferred with the defense and arranged for Darrow to apologize to the court. After the recess, Darrow apologized grudgingly but sufficiently to satisfy the big-hearted judge, who quoted Scripture and forgave Darrow. Because of the building stress, the heat, and the crowd, Judge Raulston reconvened the court on a platform in the courtyard below.

The heat, the boredom of the expert testimonials being read by Hays, and the dim prospects of anything important or exciting happening from this point on tempted all but a half dozen of the more than one hundred reporters either to go back home or seek cooler, more inviting

surroundings that afternoon. As a result they missed not only the cooler court setup of being out under the trees but also one of the hottest exchanges of the entire trial. When one reporter was asked by his Dayton hosts why he never attended trial sessions, he replied, "Oh, I don't have to know what's going on; I know what my paper wants me to write" (Allem 92). Because so few reporters were present when Bryan took the stand to be interrogated by Darrow, Scopes was conscripted to write covering news stories for the delinquent newsmen (Scopes 183-184).

Much of the Scopes Trial news coverage in 1925 and ever since leaves a great deal to be desired. Even when allowance is made for the pressures of deadlines, the demands of diverse events reporters have to describe with discernment, and the shadow of every publication's editorial bias, most accounts of the trial are found wanting when weighed in the balances of truth, accuracy, fair play, and thoroughness. On the lowest level there was character assassination. H.L. Mencken, for example, referred to Bryan as "a charlatan, a mountebank, a zany without shame or dignity" (Mencken 68). On a level not much higher was the one-sided, biased reporting which presented the remarks of Darrow, Malone, and Hays as virtually flawless but described the utterances of Bryan as vividly faulty. In addition to the inexcusable bias, the press also did a poor job on the level of the trial issues. Reporters emphasized the important issue of faculty freedom of speech but confused it with freedom of belief and disregarded the equally important issue of students' academic freedom to learn by being exposed to all the major options of a controversial matter. The prosecution's main proposition that the state, which represents the tax-paying parents through the legislature, has the right to control its schools by prescribing or proscribing the content of the curriculum tended to be ignored by the press. Also largely ignored was the fact that Bryan was not against the teaching of evolution – if it were taught as a theory rather than as a true fact – and if equal time were given to other major options, such as creationism. Another overlooked point was that Bryan did not ask that religion be taught in the public schools. What he objected to was religion being attacked in the public schools (Smith 183-184; Levine 263, 278-279, 285-286).

The most notable incident in the Scopes Trial that evidenced bias by journalists at the time and by historians ever since occurred right after Darrow objected to a large sign "Read Your Bible" and successfully moved to have it taken down. Arthur Garfield Hays then announced: "The defense desires to call Mr. Bryan as a witness." This tactic had been carefully planned for several days and even rehearsed, using Dr. Kirtley Mather, the Harvard geologist and Baptist Bible school teacher, to play Bryan. The highly irregular procedure of calling an opposition lawyer as a witness was objected to by Attorney General Stewart but permitted by Judge Raulston and agreed to by Bryan – with the understanding that he would be allowed to put Darrow, Malone, and Hays on the stand (*Trial* 264, 241, 284; de Camp 346, 365).

Reactions by reporters and subsequently by historians ranged the gamut. A few were positive. The *Arkansas Gazette* affirmed that Bryan "emerges as a hero." But most were negative. The *New York Times* for example, considered Bryan's testimony "an absurdly pathetic performance" (Olasky 17). The first historian to write a book-length account of the Scopes Trial, Ray Ginger of Brandeis University, summed up the Darrow/Bryan confrontation by saying, "Darrow's manhandling of Bryan had a shattering impact" (Ginger 152). Other commentators tended to hum Ginger's dirge.

The above-mentioned conflicting evaluations necessitate an examination of the trial transcript. Darrow's approach was in one sense "masterly trial tactics" (Ginger 152), but it seemed to heed Mencken's admonition "to make a fool out of Bryan" rather than defend Scopes or seek for truth (Fecher 199). Some of Darrow's questions are impossible to answer with certainty: "Do you know about how many people there were on this earth 3,000 years ago?" Bryan responded, "You ought not to ask me a question when you don't know the answer to it." Again, Darrow: "Did you

ever discover where Cain got his wife?" Bryan's rejoinder: "No, sir, I leave the agnostics to hunt for her." When Darrow asked a question with a definite answer, he attempted to detract from Bryan's remarks with inane scene-stealing questions. Bryan referred to a Buddhist he had met and Darrow asked, "What did he look like, how tall was he?" Bryan quipped, "I think he was about as tall as you but not so crooked." Then there were reversals of quotations and jousting with semantics, in which Darrow tried to get Bryan to use his opponent's terminology (*Trial* 292-295, 284-285).

And so it went for almost two hours, ranging over some fifty topics with several related questions each. Bryan was careful to define terms, adhere to known facts, distinguish between literal and figurative language, and frankly admit when he did not know the answer. From time to time Stewart questioned the legality of the proceedings, especially when Darrow cross-examined his own witness. "He is an hostile witness," Darrow complained. In approximately 70% of the questions and answers Bryan bested Darrow, in about 20% Darrow outshone Bryan, and in about 10% it was a draw. The 20% that Bryan lost to Darrow tended to portray Bryan as a student of the Scripture but not of science or ancient civilizations. And they disclosed that Bryan was flexible enough to allow for the days of creation being longer than twenty-four hours each and perhaps as long as millions of years. This opened the door for Hays to jump a step in reasoning and exclaim, "These things are not to be taken literally, but that each man is entitled to his own interpretation." After Darrow told Bryan, "I am examining you on your fool ideas that no intelligent Christian on earth believes," Judge Raulston adjourned court for the day (*Trial* 288, 299, 302-304).

The eighth and final day of the trial, Tuesday, July 21st, was opened in prayer by the Reverend Dr. R.C. Camper of Chattanooga. Rainy weather moved the trial back into the courtroom. Judge Raulston began by expunging the testimony of Bryan from the previous day, stating that it "can shed no light upon any issues that will be pending before the higher courts" (*Trial* 305; Ginger 152). Another reason for this move may have been a secret visit by Sheriff Harris and other officials to the judge, urging him to bring the trial to a conclusion as soon as possible in order to avoid injury, for emotions were running high, and both Darrow and Bryan had received threats (de Camp 415; Harris). Then Darrow said, "I think to save time we will ask the court to bring in the jury and instruct the jury to find the defendant guilty" (*Trial* 306). This move prepared the way for an appeal to a higher court, spared Darrow from having to be questioned by Bryan, and circumvented the summation arguments and the threat posed by the concluding address that Bryan had been working on (Scopes 186). Since there were indications that some of the jury were getting feisty over being excluded from so much of the trial, and others were showing sympathy for Scopes, there was reason to suspect that the jury might find Scopes innocent. Stewart, Raulston, and Darrow consulted together. After Raulston gave a lengthy charge to the jury, Darrow was permitted to explain to the jury that they should not worry about their verdict, for it could enable the defense to take the matter to a higher court. A discussion of who should set the fine resulted in Stewart stating correctly it should be the jury, Raulston overruling him, and Darrow promising, "We will not take an exception, either way you want it, because we want the case passed on by the higher court." The jury retired, deliberated for nine minutes, returned, and found Scopes guilty. The judge fined him \$100 and then, after being prompted by Dr. Neal, asked Scopes if he had anything to say (de Camp 418; *Trial* 309-313).

Scopes then gave his first and last official statement in his trial: "Your honor, I feel that I have been convicted of violating an unjust statute. I will continue in the future, as I have in the past, to oppose this law in any way I can. Any other action would be in violation of my ideal of academic freedom—that is, to teach the truth as guaranteed in our constitution, of personal and religious freedom. I think that the fine is unjust." The *Baltimore Evening Sun* took care of

Scopes' bond. In the closing round of comments, Bryan declared that this case was one of those great causes that "stir the world," and Darrow remarked that "here we have done our best to turn back the tide that has sought to force itself upon this. . . modern world, of testing every fact in science by a religious dictum." Judge Raulston called on the Rev. Dr. Jones to pronounce the benediction, and the World's Most Famous Court Trial ended at 12:04 p.m. (*Trial* 313-319; de Camp 425).

For five days following the trial, Bryan stayed in Tennessee. Not heeding doctors' warnings about his weak heart and diabetic condition, he prepared for publication the 15,000-word summary address he had not been allowed to deliver when the trial ended quickly, traveled several hundred miles to speak to large crowds for up to two hours at a time in the hot sun, and tramped around Dayton with a local committee looking at possible sites for a school that Bryan had suggested be built. On Sunday, July 26th, Bryan drove from Chattanooga to Dayton, was called upon to deliver the morning prayer at the First Southern Methodist Church, and that afternoon died in his sleep. Five days later he was buried in Arlington National Cemetery underneath the inscription "He kept the Faith." Within a year and a half, F.E. Robinson, Judge Raulston, Attorney General Stewart, and prosecution attorneys W.C. Haggard and B.G. and J.G. McKenzie joined with others in forming a memorial association and had Governor Austin Peay officiate in breaking ground for a university to honor Bryan's life and ideals.

John Thomas Scopes rejected F.E. Robinson's offer of his old teaching and coaching job, went to the University of Chicago graduate school, and worked for an oil company in Venezuela and a gas company in Louisiana. He died in 1970, three years after George Rappleyea, who had left Dayton for industrial ventures in Cuba, Canada, Mobile, and Miami.

For six months after the trial, the defense was mired in confused communications, failure to meet deadlines for filing documents, and especially in fighting regarding Darrow's role. The press and even liberal supporters of the ACLU criticized Darrow's agnostic, brutal, and sensational ways (Ginger 171-174; de Camp 445-450). On 31 May 1926, the appeal hearing finally began. Joining the continuing team of Darrow, Neal, Malone, Hays, and McElwee were Frank Spurlock of Chattanooga, Robert Keebler of Memphis, Walter H. Pollack, and Samuel Rosensohn of the ACLU (Ginger 171; de Camp 462). Scopes did not attend any of the legal sessions after the Dayton trial (Scopes 236). The prosecution was represented by E.T. Seay, K.T. McConnico, and William Jennings Bryan, Jr. (who mailed in his argument). And the spirit of William Jennings Bryan was there in the form of quotations from his undelivered Last Message, which the State used (Ginger 177). Finally on January 15, 1927, Tennessee Supreme Court justices announced the court's split decision. Greene and Cook agreed that the Butler Act was constitutional and violated by Scopes, but because the judge and not the jury set Scopes' fine, the judgment of the circuit court was reversed, and the case was subject to a retrial. Observing, however, that Scopes was no longer in the employ of the State of Tennessee, the court declared: "We see nothing to be gained by prolonging the life of this bizarre case. On the contrary we think the peace and dignity of the State. . . will be better conserved by the entry of a *nolle prosequi* herein. Such a course is suggested to the Attorney-General." And so the case returned to Attorney General Stewart, who obeyed the wishes of the Supreme Court and thus concluded the matter, firmly closing Darrow's hoped-for door to the U. S. Supreme Court (de Camp 469-472).

In 1926, Governor Austin Peay, who had signed the Butler Bill into law, was reelected, but Judge John Raulston was not. The next year, George W. Hunter published *A New Civic Biology*, updating the 1914 textbook Scopes supposedly used and presenting a very cautious treatment of evolution that did not even name the term. Arthur Garfield Hays returned to his law practice, continuing to champion the underdog, and he died in 1954. Dudley Field Malone, also, returned to his divorce law office, got divorced himself, remarried, and when his practice declined, be-

came a Hollywood bit-part actor for about ten years, dying in 1950.

Sue Hicks went on in law, got elected to the state legislature and later became a judge. F.E. Robinson continued to hustle as a druggist, opened up a second store in Spring City, and before his death in 1957, aided in the development at Bryan College, serving as a founder, incorporator, and chairman of the Board of Trustees. Clarence Darrow took on two more cases and then retired to write, lecture, and travel. Returning to Dayton before his death in 1938, he saw a new Cumberland Presbyterian Church built across the street from Robinson's Drug Store. Darrow quipped, "I guess I didn't do much good here after all." Attorney General Tom Stewart was elected to the U. S. Senate in 1942. Dr. John R. Neal, eccentric until his death in 1959, ran unsuccessfully for senator or governor and one year for both in the same primary. H L. Mencken lived to see his *American Mercury* magazine taken over by ultra-conservative Christian Fundamentalists. After a stroke in 1948, which made him unable to read or write, he died in 1956. In 1967, the 1925 Butler Act was repealed (de Camp 454, 481-487, 492). Then in 1973, Tennessee became the first state to pass an equal-time law which stipulated that evolution should be labeled as a theory and not a scientific fact and provided that alongside of evolution other theories, including the Genesis account, should be taught. Ironically, in the fiftieth anniversary year of the Scopes Trial this so-called Genesis Bill was declared unconstitutional.

The entrepreneurship spirit of Dayton which initiated the Scopes Trial has survived the unfittest of situations and sparkles periodically. When Hollywood made the play *Inherit the Wind* into a movie, Dayton agreed to host the world premiere in 1960. A Scopes Trial Day was sponsored. John T. Scopes returned and was given the key to the city. Twelve years later the city played host to another film premiere: *The Darwin Adventure*, with Francis Darwin, a descendant of Charles, as special guest. In 1974, on the eve of the fiftieth anniversary of the trial, a Symposium on Tennessee's Evolution Laws was held in the courtroom where Scopes was tried. Participating on the panel were professors of law, history, and biology.

Several times *Inherit the Wind* has been performed at the courthouse. Since 1988, Bryan College and the Dayton community have cooperated in organizing a four-day Scopes Trial Festival whose main feature is a documentary drama based almost entirely on the transcript of the trial and produced in the Scopes Trial courtroom. Interest in the play and the festival has been good, and most performances have been sold out, illustrating again that because of its issues, personalities, promotion techniques, and extensive media and historical coverage, the Scopes Trial continues to be "The World's Most Famous Court Trial."

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Questions for the Seers
By John Washington Butler

You know so much and are so wise,
Master of lands and sea and skies.
Chief of Sages, Prince of Seers,
With knowledge of ten million years.

You know the beasts of every kind,
And hold their secrets in your mind.
With confidence I come to you.
To learn just what I should do.

Please let me know, to you I bow:
How shall I answer skeptics now?
O! Kind Sir, answer me this day!
When did your brute blood pass away?

Say, were you happy years ago?
I want to learn while here below.
Were you a high-bred monkey, too?
And did you grin like baboons do?

Please lead me to your private room,
Or some dark cave, or silent tomb,
And to my wondering eyes reveal
Your "Missing Link" with proof and seal.

You could not write, you could not talk.
And on "all fours" you had to walk.
You claim to teach the human race —
When did this great change take place?

You dwelt in trees I have been told,
And merchandise you never sold.
When did you quit your jungle life,
And move to town with your young wife?

Kind Sir, I beg and plead just now,
As again, to you, I humbly bow —
Remove the doubt, please lift the veil,
And tell me when you lost Your Tail?



John Scopes stands before the judge in the crowded Rhea County Circuit Court room during his arraignment on charges he violated Tennessee's anti-evolution statute. Behind Scopes, to his right, are prosecuting attorneys Gordon McKenzie, seated, and Wallace Haggard. William Jennings Bryan is behind Scopes' left shoulder. At the far right is defense attorney Dudley Field Malone.

The Scopes Trial and the Evolving Concept of Freedom

By Edward J. Larson

Edward J. Larson was awarded the 1998 Pulitzer Prize in History for his book Summer for the Gods: The Scopes Trial and America's Continuing Debate Over Science and Religion. He earned the J.D. degree with honors from the Harvard Law School and the M.A. and Ph.D. degrees in the History of Science from the University of Wisconsin. At the University of Georgia, he holds a joint appointment in history and law. His publications involve the legal aspects of moral, ethical, medical and educational concerns and include several books as well as numerous articles and reviews. He has lectured and presented papers at conferences and institutions in China, Europe, and the United States. In professional activities he has received awards for excellence in teaching, served on various regional and national committees, and acted as consultant for many publications and media productions.

I. Introduction to the role of historical narrative in law

"No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning," Robert Cover once observed.¹ "Every prescription is insistent in its demand to be located in discourse — to be supplied with history and destiny, beginning and end, explanation and purpose."² Cover used this observation to introduce his analysis of the 1982 United States Supreme Court term, and to root that Court's work into the American narrative. For him, that narrative — consisting of historical events and conventional stories about those historical events locates and gives meaning to constitutional provisions. "A legal tradition is hence part and parcel of a complex normative world," he wrote.³ "The tradition includes not only a corpus juris, but also a language and a mythos — narratives in which the corpus juris is located by those whose wills act upon it. These myths establish the paradigms for behavior."⁴

Elaborating on Cover's thoughts in a later article, Milner Ball added:

As a starter, the American story of origins may be said to consist in the people, documents, and acts that we bundle loosely together and designate as cause for celebration on the Fourth of July. It is typically anchored in the Declaration of Independence (understood to be as much event as text).⁵

It need not have been so. In his book *Lincoln at Gettysburg*, Garry Wills assigns credit for this origins narrative to Abraham Lincoln, who emphasized the Declaration of Independence as our founding document because it so much better justified the Union cause during the Civil War than an appeal to the Constitution, which acknowledged both the institution of slavery and the elective entry (and perhaps exit) of states into the Union.⁶ Measuring from the time of the Gettysburg Address,

"[f]our score and seven years ago" dates back to the proclamation of the Declaration of Independence, not the ratification of the Constitution. It was then, Lincoln maintains, that "our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal."⁷ With these words, Wills asserts, Lincoln "not only put the Declaration in a new light as a matter of founding law, but put its central proposition, equality, in a newly favored position as a principle of the Constitution (which, as the *Chicago Times* noticed [at the time], never uses the word)."⁸ Also in the mid-nineteenth century, pioneer women's rights advocate Margaret Fuller⁹ and abolitionist Frederick Douglass,¹⁰ as a means to promote their respective causes, focused as well on the Declaration of Independence and events surrounding that document as formative of American notions of individual liberty and equality.

Yet, as Ball notes, other versions of the American origins narrative competed for public acceptance.¹¹ The great early nineteenth century senator and political theorist John C. Calhoun offered some alternatives in his efforts to justify states' rights and his doctrine of nullification.¹² Chief Justice Roger Taney proposed others in his 1857 opinion in *Dred Scott v. Sanford*,¹³ which effectively found support for the institution of slavery in the Declaration of Independence as well

as in the Constitution.¹⁴

The Fourteenth Amendment, ratified in the flush of Union victory following the Civil War and speaking boldly of individual liberty and equality, should have engrafted a Lincolnesque view into the Constitution. This was far from automatic, however. For example, over a century after the ratification of the Fourteenth Amendment, Justice William J. Brennan wrote dissenting and concurring in *Regents of the University of California v. Bakke*:¹⁵

Our Nation was founded on the principle that “all Men are created equal.” Yet candor requires acknowledgment that the Framers of our Constitution, to forge the 13 Colonies into one Nation, openly compromised this principle of equality with its antithesis: slavery....

The Fourteenth Amendment, the embodiment in the Constitution of our abiding belief in human equality, has been the law of our land for only slightly more than half its 200 years. And for half of that half, the Equal Protection Clause of the Amendment was largely moribund so that, as late as 1927, Mr. Justice Holmes could sum up the importance of that Clause by remarking that it was the “last resort of constitutional arguments.”¹⁶

By assuming the centrality of the Declaration of Independence to America’s origins narrative, Justice Brennan can dismiss the Holmesian view of the Fourteenth Amendment in a pen stroke and lament that the nation still fails to live up to its founding principles of liberty and equality for all.¹⁷ Without this origins narrative to locate and give meaning to our legal institutions, however, Justice Brennan’s argument would lose its force.¹⁸

The Holmes opinion in *Buck v. Bell*,¹⁹ cited by Justice Brennan, is particularly instructive because the claimant, a patient at a state home for the mentally retarded, asserted that Virginia’s 1924 eugenic sterilization statute violated her rights under the Fourteenth Amendment’s Due Process and Equal Protection Clauses.²⁰ Applying the hereditarian thinking then generally accepted by social and biological scientists,²¹ the statute ordered the sexual sterilization of her “type” in the interests of society so as to prevent such persons from reproducing their kind.²² This represented Progressive Era lawmaking with a vengeance — a subjugation of individual liberty to the interests of the community as guided by modern scientific thinking.²³ Justice Holmes, the quintessential Progressive jurist, readily approved.²⁴

“The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes,” Holmes wrote for the majority in *Buck*.²⁵ “Three generations of imbeciles are enough.”²⁶ At this point, he added his sneering comment about the Fourteenth Amendment as “the usual last resort of constitutional arguments.”²⁷ As Justice Brennan’s reference to this comment suggests,²⁹ a very different view of the Fourteenth Amendment now prevails in American law. If anything, it has become the first resort of constitutional argument. Yet Holmes’s sneer reveals much about the Progressive concept of liberty during the mid-1920s, when John T. Scopes was put on trial for teaching the theory of human evolution to students in a Tennessee public high school. His trial — a media sensation at the time and the stuff of legend thereafter²⁹ — helped transform constitutional concepts of liberty from those upheld by Justice Holmes in *Buck* to the type propounded by Justice Brennan and his colleagues on the Warren Court forty years later. According to Cover, a trial narrative itself — both as an historical event and as a cultural episode (as distinct from any substantive law announced in the case) — can serve to help locate and give meaning to constitutional concepts.³⁰ Although not referred to by Cover, the Scopes trial exemplifies his point in that its shared historical and cultural narrative revealed aspects of the earlier concept of liberty that caused many to discredit that earlier version.³¹ Presenting this argument requires some retelling of the narrative.

II. Bryan's "progressive" anti-evolution crusade

Seventy-five years ago, the Great Commoner of American political history, William Jennings Bryan, launched a popular crusade against public-school teaching of the Darwinian theory of human evolution.³² He did not believe that humans were the product of a random, survival-of-the-fittest, evolutionary process, and he feared that acceptance of this idea fueled militarism, imperialism, the exploitation of labor, and eugenics — all forms of social Darwinism that he consistently opposed during his long political career. Further, he worried that it undermined faith in a loving God, which he viewed as vital for personal salvation and public reform.³³ Yet, while (much like other anti-evolutionists) he did try to challenge Darwinism on its own terms, Bryan added a new element: a call for laws against its teaching.³⁴ By doing so, he inadvertently raised the issue of majority rule versus minority rights in an instructive new way that impacted how Americans conceived of liberty. In this context, "minority rights" simply means the rights of persons to dissent in thought, word, and deed from majority-backed policies and programs.

Although it was his stance against Darwinism that brought him into alliance with religious conservatives, Bryan entered the anti-evolution crusade as one of America's preeminent political liberals.³⁵ The Democratic Party thrice nominated him for president with the support of its most liberal wing, and the radical Populist Party once seconded this nomination. Moreover, Bryan had led the fight for nearly every successful Progressive cause from labor laws in the 1890s to female suffrage in 1920.³⁶ Yet this was a time when the definition of liberty was up for grabs within the Progressive camp. Most peoples of Europe and Asia were still under the boot of authoritarian monarchies: The Tsar ruled in Russia, the Kaiser in Germany, kings in Italy and Spain, and emperors in Austria-Hungary, China, Japan, and the Ottoman domains. For many Progressives of the day, including Bryan, majority rule was the most fundamental liberty of all. Of course, Americans had always extolled minority rights; but majoritarianism had its advocates too. It was preeminent in the Anti-Federalist conception of liberty during the Revolutionary Era,³⁷ for example, and central to the republicanism of Jefferson and Jackson.³⁸ In the landmark *Lochner v. New York*³⁹ decision of 1905, traditionalists on the U.S. Supreme Court struck down maximum-hour employment legislation as an unconstitutional restriction on individual freedom of contract, while Progressives of the day, including a dissenting Justice Holmes, uniformly saw the greater liberty in upholding the majoritarian judgment regarding oppressive labor practices.⁴⁰ It was the latter view of liberty that Bryan carried into the anti-evolution crusades.

During the early 1920s, most religious opponents of evolutionary teaching justified anti-evolution laws as a means to protect public school students from the so-called false science of Darwinism.⁴¹ Under such reasoning, teaching evolution would be wrong even if most people supported it.⁴² This is where Bryan broke ranks with other anti-evolutionists. Rather than simply claim a need to stop the teaching of Darwinism, Bryan justified anti-evolution lawmaking on majoritarian grounds.⁴³ "Teachers in public schools must teach what the taxpayers [want] taught, the Commoner admonished the West Virginia legislature in 1923."⁴⁴ "The hand that writes the pay check rules the school."⁴⁵ Such reasoning went to the core of Bryan's political philosophy. "The essence of democracy is found in the right of the people to have what they want," he once wrote.⁴⁶ "There is more virtue in the people themselves than can be found anywhere else."⁴⁷

Bryan consistently espoused this philosophy: from the 1890s, when he commented upon one of his election defeats, "The people gave and the people have taken away, blessed be the name of the people;"⁴⁸ through his campaign for world peace, when he proposed holding a national referendum before the country could go to war;⁴⁹ to his anti-evolution crusade of the 1920s. Indeed, the strength of Bryan's convictions in his fight against evolutionary teaching sprang from his stated belief that "in this controversy, I have a larger majority on my side than in any previous controversy."⁵⁰ He estimated that "nine-tenths of the Christians" in America agreed

with his views on evolution.⁵¹ Even though that estimate exaggerated the level of support for anti-evolution laws, clearly a large number of Americans supported Bryan on this issue — especially in the South.⁵² “Have faith in mankind,” the Commoner proclaimed, “Mankind deserves to be trusted.”⁵³

Minority rights lost out under this political philosophy. “If it is tended that an instructor has a right to teach anything he likes, I reply that the parents who pay the salary have a right to decide what shall be taught,” Bryan maintained.⁵⁴ “A scientific soviet is attempting to dictate what shall be taught in our schools,” he warned.⁵⁵ “It is the smallest, the most impudent, and the most tyrannical oligarchy that ever attempted to exercise arbitrary power.”⁵⁶ He gave a similarly facile response to charges that anti-evolution laws infringed on the rights of nonfundamentalist parents and students. Protestants, Catholics, and Jews shared a creationist viewpoint, Bryan believed, and he sought to enlist all of them into his anti-evolution crusade.⁵⁷ As for nontheists, he asserted, “The Christians who want to teach religion in their schools furnish the money for denominational institutions. If atheists want to teach atheism, why do they not build their own schools and employ their own teachers?”⁵⁸

These comments reflected the deep ambivalence toward minority rights that underlay Bryan’s majoritarianism. “No concession can be made to the minority in this country without a surrender of fundamental principle of popular government,” he once proclaimed with respect to Prohibition.⁵⁹ When the *Lochner* Court struck down Progressive Era labor laws on the ground that they violated minority rights, Bryan sought to limit judicial review of legislation.⁶⁰ Thus, he could say about teachers of evolution:

It is no infringement on their freedom of conscience or freedom of speech to say that, while as individuals they are at liberty to think as they please and say what they like, they have no right to demand pay for teaching that which parents and the taxpayer do not want taught.⁶¹

To the extent American political history reflects a tension between majority rule and minority rights, Bryan stood for majoritarianism. As Edgar Lee Masters observed at the time, for Bryan, “the desideratum was not liberty, but popular rule.”⁶² Of course, Masters here equated liberty with minority rights. Bryan would never have done so — for him, popular rule was liberty.

Bryan crusaded long and hard to generate popular support for laws against evolutionary teaching. He wrote scores of articles and books, gave hundreds of speeches, and addressed legislatures on the topic in a half dozen states.⁶³ After two years of such campaigning, he secured his first victory in 1925, when the Tennessee Legislature enacted the nation’s first law against evolutionary teaching. Actually, it went further than Bryan wanted by barring all teaching about human evolution (not just Darwinism) and by including a criminal penalty for violations (which Bryan feared would create martyrs).⁶⁴ Still, Bryan hailed it as the expression of the popular will and volunteered to defend it in court when it was challenged by John Scopes.⁶⁵

III. The ACLU’S Emerging Concept of Liberty

Scopes did not instigate this historic legal challenge: He was merely the willing tool of others who objected to the statute. The idea began with the American Civil Liberties Union (“ACLU”), then an obscure organization of socially prominent, politically radical New Yorkers.⁶⁶ The ACLU had opposed Bryan’s anti-evolution crusade from the beginning and, after enactment of the Tennessee statute, publicly offered to defend any local teacher willing to challenge the law in court. In Dayton, Tennessee, the offer was seen by civic leaders (including the school superintendent and chairman of the school board) as a means to put their small town on the map by hosting the test case — and they recruited Scopes as the defendant knowing full well that he never violated the law.⁶⁷ Thus it was the ACLU and these civic boosters, not the fervid anti-evo-

lutionists portrayed in *Inherit the Wind*,⁶⁸ who were responsible for the fabled Scopes trial.

ACLU activists in far-off New York took the lead in challenging Tennessee's anti-evolution law because they placed that new statute in a broader context that emphasized the law's significance to their agenda. Prior to the Scopes trial, the ACLU had not displayed any particular animosity toward religious lawmaking. Quite to the contrary, the organization was founded in part to protect Quakers and other religious pacifists from compulsory military service during the First World War.⁶⁹ But now its leaders saw anti-evolution laws as oppression by a local fundamentalist majority against the minority rights of secular public school teachers. More than anything else, it was the war that led these ACLU activists (most of whom who had supported Bryan as a Populist presidential candidate and as a pacifist pre-war secretary of state) to this new view of liberty.⁷⁰

"It is a fearful thing to lead this great peaceful people into war," President Wilson declared in his 1917 war message to Congress. He then added to the terror for some by warning that "a firm hand of stern repression" would curtail domestic disloyalty during wartime.⁷² At Wilson's request, Congress imposed a military draft, enacted an Espionage Act⁷³ that outlawed both obstructing the recruitment of troops and causing military insubordination, and authorized the immigration service to denaturalize and deport foreign-born radicals. In 1918, Congress responded to mounting domestic opposition to the war by expanding the Espionage Act to bar "disloyal" or "abusive" statements about the American form of government.⁷⁴

The ACLU was formed to fight such restrictions. "We are deeply concerned lest America, having declared a state of war, should sacrifice certain safeguards fundamental to the life of her democracy," the ACLU's parent organization asserted in an open letter to President Wilson.⁷⁵ Soliciting signers for this letter, future ACLU founding director Roger Baldwin lamented the state of American civil liberties at the time; "These have been grossly violated in many places."⁷⁶

These violations struck close to home for the ACLU and helped shape its libertarian philosophy toward free speech. Within weeks of the ACLU's formation, the postal service banned from the mail twelve different antiwar pamphlets that the ACLU had prepared for mass distribution.⁷⁷ President Wilson, who hailed from the same liberal establishment that gave birth to the ACLU, maintained a majoritarian view of government that justified limits on free speech and other minority rights once Congress declared war. In the banned pamphlet, the ACLU countered that the majority should never assert control over matters of individual conscience "Democracy degenerates into mobocracy unless the rights of the minority are respected," it declared." Baldwin himself soon went to prison for his antiwar activities.⁷⁹

These bitter experiences gradually changed the outlook toward democratic government held by Baldwin and other ACLU leaders. As a Progressive reformer prior to the war, for example, Baldwin campaigned for many majoritarian reforms, such as the initiative and referendum process, but he increasingly shifted his zeal to the defense of minority rights as he suffered under the excesses of majority rule.⁸⁰ Baldwin and his colleagues now maintained that majority rule and liberty were not necessarily synonymous and thus turned to the First and Fourteenth Amendments (rather than democracy itself) as the principles for advancing freedom.⁸¹ This new antimajoritarian impulse, forged in the crucible of wartime mass hysteria, profoundly influenced the ACLU's response to the anti-evolution crusade.

Proponents of civil liberties expected conditions to improve after the armistice in 1918, but to them the domestic repression appeared only to intensify.⁸² An unprecedented number of strikes paralyzed large sectors of American business during 1919 as an epidemic of labor unrest swept the country following the war. Racial riots broke out in several cities.⁸³ Terrorist bombings rocked the home of U.S. Attorney General A. Mitchell Palmer, and mail bombs were sent to dozens of other political and business leaders. Newly formed domestic communist parties defended

violent revolution abroad and labor militancy at home — with the two seeming to blur in the minds of many frightened Americans.⁸⁴

The government reacted swiftly. Most states outlawed the possession or display of either the red flag of communism or the black flag of anarchism. They also enacted and strictly enforced tough new “criminal syndicate” laws against organized violent or unlawful activities designed to disrupt business or government activities. The Wilson Administration supplemented such state actions with a series of coordinated federal police raids that ransacked the homes and offices of alleged radicals across the country and led to the arrest of thousands of suspects — often without valid warrants.⁸⁵ Thus stood events when Baldwin left prison and reassumed leadership of the ACLU.⁸⁶ He promptly concluded that the Union should be “reorganized and enlarged to cope more adequately with the invasions of civil liberty incident to the industrial struggle which ha[d] followed the war.”⁸⁷ Direct action to protect the free speech of labor organizers would replace legal maneuvers on behalf of pacifists as the Union’s focus.⁸⁸ “The cause we now serve is labor,” Baldwin proclaimed at the time, and labor included school teachers.⁸⁹

The new cause and methods adopted by the ACLU set the stage for how it would handle the Scopes trial. It remained an elitist organization dominated by radical New Yorkers who had grown wary of majoritarianism. They instinctively opposed popular movements to restrict academic freedom, such as the anti-evolution crusade; however, failure to achieve judicial redress of their grievances, especially on behalf of labor unions, led them increasingly to resort to direct action tactics designed to enlighten public opinion. Litigation, in and of itself, did not then appear to offer much promise for protecting minority rights, instead, the ACLU sought to create, shape, and relate events — historical narratives — that would dramatize the cause of individual liberty, particularly free speech.⁹⁰

The ACLU had enjoyed some success in providing legal counsel to conscientious objectors during the war, but it utterly had failed to make headway in court toward protecting freedom of expression for antiwar protesters. It fared no better in its initial courtroom efforts to defend Labor organizers following the war. In fact, at the time of the Scopes trial in 1925, the ACLU was still looking for its first free speech court victory.⁹¹ From a legal point of view, the problem was two-fold, First, states and municipalities imposed many of the objectionable restrictions on speech and assembly, particularly against labor unions, but First Amendment guaranties for the freedom of speech, press, assembly, and religion only applied to restrictions imposed by the federal government.⁹² To be sure, the Fourteenth Amendment forbade states from depriving person of life, liberty, or property, without due process of law.⁹³ Legal arguments had been advanced from the time of its drafting that the “liberty” protected against state action by the Fourteenth Amendment incorporated the basic freedoms enumerated in the Amendment.⁹⁴ The full Supreme Court, however, did not begin to incorporate these freedoms, even selectively, until later.⁹⁵

Second, even in federal cases to which the First Amendment applied, judges tended to give it a Bryanesque, majoritarian interpretation. For example, the first constitutional challenge to the federal Espionage Act reached the Supreme Court in 1919, when a unanimous bench upheld the conviction of Socialist leader Charles T. Schenck for encouraging draft-age men to refuse conscription.⁹⁶ Congress had a right to protect recruitment and conscription of troops during wartime, the Court reasoned, and because Schenck’s words had a “tendency” to frustrate that effort, the government could stop them.⁹⁷ Free speech “stands no differently than freedom from vaccination,” Justice Holmes wrote (anticipating his comments on freedom from eugenic sterilization),⁹⁸ and is a “freedom” that the majority can freely override for the general good.⁹⁹ The ACLU vehemently countered that free speech merited special protection from the majority because of its unique role in a democracy, but to no avail.¹⁰⁰

The prevailing judicial interpretation of the First and Fourteenth Amendments offered

little prospect that the ACLU could protect free speech through the courts, and therefore it adopted other means. For example, its first annual report declared:

By demonstrations, publicity, pamphlets, legal aid, bail, test cases in the courts, financial appeals, [sic] by all these methods of daily service the friends of progress to a new social order make common cause....

The chief activity necessarily is publicity in one form or other, for ours is a work of propaganda — getting facts across from our point-of-view.¹⁰¹

The ACLU fought many of its battles in court simply because that was where the government took the people whom the ACLU sought to defend. This view of civil liberties litigation (that at most it could publicize injustice and thus create historical narrative) shaped the ACLU's handling of the Scopes case.

ACLU Executive Committee Member Arthur Garfield Hays personified the direct-action approach to the fight for civil liberties and brought it to Dayton as the ACLU's representative at the Scopes trial. A left-wing Park Avenue attorney named by his Republican father for a string of conservative presidents,¹⁰² Hays's commitment to direct action on behalf of free speech made him a key actor in many of the dramatic confrontations that marked the early years of the ACLU and helped make it famous. He peddled banned magazines with renowned *American Mercury* editor H.L. Mencken on the Boston Commons in public defiance of a local censorship ordinance.¹⁰³ Despite a threat that "they'll tar and feather you and castrate you,"¹⁰⁴ Hays confronted mine owners in a strike-bound West Virginia coal town following the murder of three local union officials.¹⁰⁵ In an act of great courage given his Jewish ancestry, he flew into Nazi Germany to defend in court the Jews falsely charged with burning the Reichstag.¹⁰⁶ Such experiences made Hays deeply distrustful of majoritarianism. "We should bear in mind the fact that there may be no greater oppression than by rule of majority," Hays characteristically observed in one of his autobiographical books.¹⁰⁷ For him, court proceedings in civil liberties cases served as stages for dramatizing the ACLU view of freedom. The Scopes trial would become his best-known performance.

The ACLU message was somewhat blurred at the Scopes trial by the presence of famed defense attorney Clarence Darrow, who volunteered his services directly to Scopes and thereafter could not be displaced as co-counsel despite ACLU efforts. A champion of anticlericalism, Darrow went to Dayton to promote secularism more than individual freedom, and he forced Bryan into defending religion more than majority rule.¹⁰⁸ Yet, thanks to the intense public attention focused on the trial, the ACLU message that liberty flows more from minority rights than from majority rule got out. Indeed, because the object of restriction was an established scientific theory attacked by religious fundamentalists rather than radical political or economic ideas despised by the establishment, the ACLU's concept of liberty gained new respectability. Prominent individuals and groups never before associated with the ACLU now rushed to join its cause. Former Secretary of State Bainbridge Colby volunteered for the defense team, and former Chief Justice Charles Evans Hughes agreed to handle any later appeal.¹⁰⁹ The presidents of Harvard, Stanford, and other top colleges lent their names to a committee raising money for the defense.¹¹⁰ The prestigious American Association for the Advancement of Science arranged expert witnesses for the trial, and some of the nation's leading scientists and scholars made the trip to Dayton on Scopes's behalf.¹¹¹ For them and others within the social elite, Columbia University president Nicholas Murray Butler set the tone. "New barbarians" were storming the gales of civilization, he asserted at the time: "The notion that a majority must have its way, whether in matters of opinion or in matters of personal conduct, is as pestilent and anti-democratic a notion as can possibly be conceived."¹¹²

For these prominent liberal opinion leaders and countless other Americans, Bryan's anti-

evolution crusade and the resulting Scopes trial provided an experience — the stuff of historical narrative — that led them to revise their views on majority rule and minority rights.¹¹³ For example, as early as 1922, the influential Columbia University philosopher John Dewey stated:

The campaign of William Jennings Bryan against science and in favor of obscurantism and intolerance is worthy of serious study. It demands more than the mingled amusement and irritation which it directly evokes. In its success (and it is meeting with success) it raises fundamental questions about the quality of our democracy.¹¹⁴

Dewey went on to describe Bryan as “a typical democratic figure” and to warn about his majoritarianism that “[t]here is a genuine and effective connection between the political and the doctrinal directions of his activity, and between the popular responses they call out.”¹¹⁵ Calling for an enlightened view of individual “liberality,” Dewey added, “We have been so taught to respect the beliefs of our neighbors that few will respect the beliefs of a neighbor when they depart from forms which have become associated with aspiration for a decent neighborly life. This is the illiberalism which is deep-rooted in our liberalism.”¹¹⁶

Alerted to this threat by the anti-evolution crusade, Dewey detected a similar appeal to “moral emotions rather than the insight and policy of intelligence” in Bryan’s economic and political campaigns and in the Progressivism of Theodore Roosevelt and Woodrow Wilson.¹¹⁷ These emotional appeals represented profound dangers to American liberty, according to Dewey.¹¹⁸

IV. The Scopes narrative and its legacy

For these prominent Americans, the Scopes narrative thus became a powerful story of the fight for individual liberty — free speech and academic freedom — against the oppression of a religiously motivated majority. This narrative was enshrined in historical and cultural accounts of the episode. Technically, Scopes was convicted and the law upheld, *Harper’s* magazine editor Frederick Lewis Allen explained in *Only Yesterday*, his best-selling 1931 book about the 1920s, “Yet really Fundamentalism had lost. . . and the slow drift away from [it] continued.”¹¹⁹ Richard Hofstadter, William Leuchtenburg, and other historians took a similar tact in their more scholarly accounts: Fundamentalist lawmaking had been debunked in Dayton and liberty saved from the excesses of majority rule.¹²⁰ *Inherit the Wind*¹²¹ presented it on stage and screen. In this script, an uncharacteristically tolerant Darrow became the voice for freedom, and a senile Bryan served as the discredited voice for majoritarian oppression.¹²²

Under Chief Justice Earl Warren during the 1950s and 1960s, the Supreme Court effectively embraced the ACLU view that minority rights stand at the heart of liberty. Not only did the First Amendment grow to cover state action, but the Warren Court Justices interpreted it to bar all but the most compelling government restrictions on its enumerated rights.¹²³ Perhaps because the Scopes episode had cast religious lawmaking as the source of majoritarian oppression, those Justices appeared particularly suspicious of statutes and government practices supportive of religion.¹²⁴ These legal developments made anti-evolution statutes seem virtually un-American by the 1960s, even though they were still on the books (though never enforced) in Tennessee and some other Southern states. Even fundamentalists began seeking other avenues of recourse against Darwinian teaching: Balanced treatment for their own ideas now appeared more appropriate than censoring their opponents.¹²⁵ The role played by the Scopes narrative in these legal developments was particularly evident in the Warren Court’s handling of those old statutes.

The U.S. Constitution says little about state restrictions on minority rights beyond the Fourteenth Amendment bar against states depriving “any person of life, liberty, or property, without due process of law” or of “the equal protection of the laws.” With respect to the former clause, Progressives of the 1920s mainly worried about conservative federal judges using

it to strike down state economic regulations designed to protect workers — the very kind of majoritarian rules first championed by Bryan. This stance had placed the ACLU in an awkward position when it sought to use the same clause to prevent Tennessee from imposing conditions on Scopes's employment. Taking a majority-rule view of the matter, the arch-Progressive *New Republic* magazine had asked in a 1925 editorial:

Why should the Civil Liberties Union have consented to charge the State of Tennessee with disobeying the Constitution in order legally to exonerate Mr. Scopes? They should have participated in the case, if at all, for the purpose of fastening the responsibility for vindicating Mr. Scopes, not on the Supreme Court of the United States, but upon the legislature and people of Tennessee.¹²⁷

Majority rule, not minority rights, should protect liberty according to this view.

By the 1960s, however, federal courts had long since stopped using the Fourteenth Amendment to strike down Progressive state economic regulations and instead started using it to void repressive state social legislation. The process began the same year as the Scopes trial, when the Supreme Court first ruled that the "liberty" protected from state infringement by the Due Process Clause incorporated the First Amendment right of free speech.¹²⁸ It took over twenty years before the Court added the Establishment Clause to the rights incorporated into the Fourteenth Amendment.¹²⁹ Once it did, however, the Court quickly began purging such well-entrenched religious practices and influences from public schools as bible reading, religious instruction, and daily prayers.¹³⁰ These rulings provided solid authority for effectively challenging anti-evolution statutes under the federal constitution. The Scopes narrative did the rest when such a case, *Epperson v. Arkansas*,¹³¹ finally reached the Court in 1967, after the ACLU joined in litigating a declaratory judgment action against Arkansas's forty-year-old but never used anti-evolution statute.¹³²

Echoes of the Scopes trial resounded throughout the *Epperson* appeal when it reached the Supreme Court.¹³³ The plaintiffs' principal brief to the Court closed with a dramatic reference to "the famous Scopes case" in Tennessee, and the "darkness in that jurisdiction" that followed it.¹³⁴ The State countered by appealing to the authority of the Scopes decision and closed with extended excerpts from the Tennessee Supreme Court opinion in that case.¹³⁵ The ACLU brief began: "The Union, having been intimately associated with Scopes v. Tennessee 40 years ago, when this issue first arose in the courts, looks forward to its final resolution in this case."¹³⁶ Allusions to the Scopes case ran through the oral arguments¹³⁷ and media coverage¹³⁸ as well.

When the Justices met to discuss the case, all but one voted to strike the law. Drawing on personal experiences as a Jewish high-school student in Memphis, Tennessee, during the Scopes trial, Justice Abe Fortas took the lead in scorning the statute as an unconstitutional establishment of religion.¹³⁹ His colleagues were skeptical, however. According to Fortas's own notes of that conference, most of them viewed the antiquated law as void for vagueness. Justice William O. Douglas argued that "establishment of religion is not really in the case," presumably because all prior Establishment Clause rulings involved governmental actions that had the primary effect of advancing religion.¹⁴⁰ Here, the never-used statute had little, if any, impact whatsoever. Even the lawyer challenging it admitted as much during oral arguments.¹⁴¹ Yet Fortas persisted and asked to draft the Court's ruling. In the resulting opinion, Fortas set the Court's holding squarely in the context of the Scopes case, beginning and ending with references to it. He conceded that the Arkansas statute "is presently more of a curiosity than a vital fact of life" yet he held that it violated the Establishment Clause because of its original purpose.¹⁴² "Its antecedent, Tennessee's 'monkey law,' candidly stated its purpose," he wrote, "to make it unlawful 'to teach any theory that denies the story of the Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals.'"¹⁴³ Never mind that this language did not appear in

the Arkansas statute; the Tennessee law was equally on trial now. To support his analysis of the statute's historical purpose, Fortas cited the memoirs of Darrow and Scopes, a book by Richard Hofstadter, and a thirty-year-old pamphlet by the ACLU — all of which dealt with the Scopes trial rather than the Arkansas statute.¹⁴⁴ Religious purpose alone became the Court's basis for striking the law.¹⁴⁵

In part because of Fortas's opinion, having "a secular legislative purpose"¹⁴⁶ became a separate test for Establishment Clause violations, reflecting Fortas's conviction that the clause simply must cover the Scopes situation.¹⁴⁷ "In my view," constitutional law expert Gerald Gunther later observed, "the controversy about the [Scopes] trial planted the seeds of critical analysis of statutes like the Monkey Law — seeds which, decades later, bore fruit in the Supreme Court on different grounds."¹⁴⁸ In a more general comment, senior legal scholar Charles Alan Wright added, "Darrow made Bryan look so foolish, as we have seen in various dramatizations of the trial, that... it [became] much harder for people to insist" on the religious influences in public education.¹⁴⁹ The Scopes narrative thus had advanced the view of minority rights as central to the meaning of liberty with special concern about religiously motivated majority rules.¹⁵⁰

Justice Hugo Black, the Court's oldest member and a lifelong Bryanesque Progressive, could scarcely contain his frustration over the outcome of this case. In a sharply worded separate opinion, he restated his longstanding opposition to striking statutes on account of their supposed purpose. "[I]t is simply too difficult to determine what those motives were," Black wrote.¹⁵¹ Drawing on his personal experience as an Alabama politician during the anti-evolution crusade, the eighty-two-year-old Justice suggested an alternative purpose for the Arkansas law. Rather than favoring religious creationism, he wrote, "It may be instead that the people's motive was merely that it would be best to remove this controversial subject [of origins] from its schools."¹⁵² This, he argued, the majority ought to be able to do. In an apparent reply to Black, Fortas added to a later draft of his opinion, "Arkansas' law cannot be defended as an act of religious neutrality. . . . The law's effort was confined to an attempt to blot out a particular theory because of its supposed conflict with the Biblical account, literally read."¹⁵³ This, he maintained, infringed the minority rights of dissenting students and teachers. Forty-three years after the Scopes trial, Black and Fortas here replayed one aspect of the Scopes debate — but this time the ACLU position prevailed in the court of law as well as public opinion. Due in part to the shadow cast by the Scopes narrative, minority rights replaced majority rule as central to the Court's view of liberty, with a particular darkness cast over laws and government practices seen as having a religious purpose.¹⁵⁴

V. Conclusions about the Scopes Trial as narrative

Despite its historical significance, there is nothing particularly remarkable about the claim that the Scopes trial, as a shared historical and cultural narrative, should impact American law. Many legal commentators have noted the power of narrative in shaping legal concepts, and good legal advocates have sought to utilize it. Indeed, as Richard Delgado noted about legal narrative nearly a decade ago:

Everyone has been writing stories these days. And I don't just mean writing about stories or narrative theory, important as those are. I mean actual stories, as in "once-upon-a-time" type stories. Derrick Bell has been writing "Chronicles," and in the *Harvard Law Review* at that. Others have been writing dialogues, stories, and metastories. Many others have been daring to become more personal in their writing, to inject narrative, perspective, and feeling — how it was for me — into their otherwise scholarly, footnoted articles and, in the case of the truly brave, into their teaching.¹⁵⁵

Delgado goes on to discuss the appeal of such storytelling. "Stories, parables, chronicles, and narratives are powerful means for destroying mindset — the bundle of presuppositions, received wisdoms, and shared understandings against a background of which legal and political discourse takes place," Delgado notes, which makes them particularly appealing to "outgroups" seeking to subvert "ingroup reality."¹⁵⁶ He quotes Robin West's remark about feminist storytelling: "We need to flood the market with our own stories until we get [the] point across."¹⁵⁷

The ACLU represented a distinct outgroup in 1925. Its activists recognized an opportunity in the Scopes trial of creating a narrative of majoritarian oppression driven by religious zeal.¹⁵⁸ They had attempted to script a similar narrative during the First World War with wartime patriotism serving as the driving force for majoritarian oppression, and again after the war in defense of political and labor radicals harassed during the nationalistic Red Scare. But the Scopes narrative proved particularly effective in reaching the nation's social and cultural elite, perhaps because the majoritarian restrictions at issue in Scopes emanated from a force so alien to the elite, while xenophobia during World War I and the Red Scare carried the apparent endorsement of the elitist Wilson Administration. Thus, the same President Nicholas Butler of Columbia University who so deplored the anti-evolution restrictions on teachers imposed by the fundamentalists (or, as he called them, the "new barbarians"¹⁵⁹), had purged antiwar teachers from his own faculty during the First World War.¹⁶⁰

Explaining the power of narrative to change mindsets regarding the law, Steven L. Winter suggested:

The attraction of narrative is that it corresponds more closely to the manner in which the human mind makes sense of experience than does the conventional, abstracted rhetoric of law.... In narrative, we take experience and configure it in a conventional and comprehensible form. This is what gives narrative its communicative power; it is what makes narrative a powerful tool of persuasion and, therefore, a potential transformative device for the disempowered.¹⁶¹

The Scopes trial offered a powerful, comprehensible narrative. Scopes, as a seemingly innocent, young school teacher, presented a compelling victim of majoritarian oppression.¹⁶² Fundamentalists, at least to nonfundamentalists, offered unfamiliar and potentially threatening villains.¹⁶³ Particularly as retold in *Inherit the Wind*, the Scopes narrative became a powerful tool of persuasion. Even though the jury found Scopes guilty, and the Tennessee Supreme Court upheld the anti-evolution law, that play aptly concluded with the defense attorney assuring his dejected client, "Millions of people will say you won. They'll read in their papers tonight that you smashed a bad law. You made it a joke!"¹⁶⁴ As the defense attorney predicted, the Scopes narrative eventually triumphed over the Scopes decision in shaping American law.

Notes

- * *Although some of the narrative in this essay is condensed from the author's recent book, Summer for the Gods: The Scopes Trial and America's Continuing Debate Over Science and Religion, the argument here is new.*
1. Robert M. Cover, "The Supreme Court. 1982 Term — Forward: Nomos and Narrative," 97 Harv. L. Rev. 4, 4 (1983).
 2. *Id.* at 5.
 3. *Id.* at 9.
 4. *Id.* Cover offers examples of how such narratives give rise to constitutional meaning. See *Id.* at 25-40; see also Robert M. Cover, "The Folktales of Justice: Tales of Jurisdiction," 14 Cap. U. L. Rev. 179, 180 & n.7 (1935) [describing law as rooted in "the sacred narratives of our world"].
 5. Milner S. Ball, "Stories of Origin and Constitutional Possibilities," 87 Mich. L. Rev. 2280, 2282 (1989).
 6. Garry Wills, *Lincoln at Gettysburg* 145-47 (1992).

7. Abraham Lincoln, "Address Delivered at the Dedication of the Cemetery at Gettysburg" (November 20, 1863) in *1 The Norton Anthology of American Literature*, 1588, 1588 (Nina Baym ed., 5th ed. 1998) [hereinafter *Norton Anthology*].
8. Wills. *supra* note 6, at 145.
9. See Margaret Fuller, "The Great Lawsuit: Man Versus Men, Woman Versus Women." reprinted in *Norton Anthology*, *supra* note 7, at 1592, Fuller loosely quoted from the Declaration of Independence in her 1843 masterpiece, writing of the significance of that Declaration and the events that surrounded its proclamation:

"Though the national independence be blurred by the servility of individuals: though freedom and equality have been proclaimed only to leave room for a monstrous display of slave dealing and slave keeping; though the free American so often feels himself free, like the Roman, only to pamper his appetites and his indolence through the misery of his fellow beings, still it is not in vain, that the verbal statement has been made, 'All men are born free and equal.'" *Id.* at 1597.
10. See Frederick Douglass, "The Meaning of July Fourth for the Negro: Speech at Rochester," New York (July 5, 1852) in *Norton Anthology*, *supra* note 7, at 2057. In his famous 1852 oration, the former slave and noted abolitionist Frederick Douglass proclaimed: "I have said that the Declaration of Independence is the ringbolt to the chain of your nation's destiny; so, indeed, I regard it. The principles contained in that instrument are saving principles. Stand by those principles, be true to them on all occasions, in all places, against all foes, and at whatever cost." *Id.* at 2060-61. For Douglass's role in shaping the American origins narrative, see Cover, *supra* note 1, at 35-40; Ball, *supra* note 5, at 2282-85.
11. See Ball, *supra* note 5, at 2283-85.
12. See Wills, *supra* note 6, at 129.
13. 60 US. (19 How.) 393 (1856).
14. See *id.* at 409-12; see also Wills, *supra* note 6, at 114 [discussing Lincoln's reaction to the *Dred Scott* decision]; Cover, *supra* note 1, at 36-37 [discussing Taney's constitutional interpretation in *Dred Scott* and the abolitionist reaction].
15. 438 U.S. 265 (1978) [Brennan, J., dissenting and concurring].
16. *Id.* at 326 [quoting *Buck v. Bell*, 274 U.S. 200, 208 (1927)].
17. See *id.* at 326-27.
18. See, e.g., Wills, *supra* note 6, at 146 [stating that equality arguments are less persuasive for some legal analysts who place the Constitution (and its original intent) at the center of the national origins narrative].
19. 274 U.S. 200 (1927).
20. See *id.* at 205.
21. See Carl N. Degler, *In Search of Human Nature: The Decline and Revival of Darwinism in American Social Thought*, 3-55 (1991).
22. *Buck*, 274 U.S. at 205.
23. For a discussion of eugenics as a Progressive reform movement, see Edward J. Larson, *Sex, Race and Science: Eugenics in the Deep South* 11, 30-31, 88-89 (1995); Donald K. Pickens, *Eugenics and the Progressives* (1968).
24. In her analysis of Holmes's decision in *Buck*, Mary Dudziak concludes that Holmes, as a Progressive, approved the Virginia eugenic sterilization statute on both procedural and substantive grounds. See Mary L. Dudziak, "Oliver Wendell Holmes as a Eugenic Reformer: Rhetoric in the Writing of Constitutional Law," 71 Iowa L. Rev. 833, 856 (1986).
25. 274 U.S. at 207.
26. *Id.*
27. *Id.* at 208.
28. See *Bakke*, 438 U.S. at 326.
29. See generally Edward J. Larson, *Summer for the Gods: The Scopes Trial and America's Continuing Debate Over Science and Religion* 148, 225-46 (1997) [discussing the media's coverage of the

trial and the subsequent academic and popular fascination with the Scopes trial narrative; hereinafter Larson, *Summer for the Gods*].

30. See Cover, *supra* note 1, at 4.
31. For a comparable analysis of the role of narrative in influencing constitutional concepts, see Richard Delgado, "Storytelling for Oppositionists and Others: A Plea for Narrative," 87 Mich. L. Rev. 2411(1989).
32. For an overview of this crusade, see Edward J. Larson, *Trial and Error: The American Controversy Over Creation and Evolution* 28-57 (1989) [thereinafter Larson, *Trial and Error*].
33. Bryan raised all of these issues in the closing argument that he prepared for the Scopes trial, reprinted in *The World's Most Famous Court Trial: The Tennessee Evolution Case* 321-39 (2d ed., Bryan College 1990 (1925)).
34. See Lawrence W. Levine, *Defender of the Faith: William Jennings Bryan: The Last Decade*. 1915-1925, at 274-78 (1965).
35. See *id.*, at 274 (noting "Bryan's attempt to straddle the worlds of religious conservatism and political liberalism").
36. See *id.* at 151; Louis W. Koenig, *Bryan: A Political Biography of William Jennings Bryan* 246-47, 570-73 (1971).
37. For a general discussion of the relative emphasis on majority rule versus minority rights of the Federalists and Anti-Federalists, see Gary B. Nash at al., *The American People: Creating a Nation and a Society* 234-36 (3d ed. 1994) [concluding that "the Anti-Federalists were more consistently sympathetic to democratic principles than were their Federalist opponents"].
38. See generally Robert V. Remini. *The Revolutionary Age of Andrew Jackson* 79 (1976) [referring to the Jacksonian Era and noting that "[t]o the ordinary citizen, the common man, it seemed that 'the people' themselves had finally assumed control of their government"].
39. 198 U.S. 45(1905).
40. See *id.* at 64, 76; Gerald Gunther, *Learned Hand: The Man and the Judge* 118-23 (1994).
41. See Ronald L. Numbers, *The Creationists: The Evolution of Scientific Creationism* 50 (1992).
42. See, e.g., W.B. Riley, "Evolution - A False Prophecy," reprinted in *The Antievolution Pamphlets of William Bell Riley* 87 (William Vance Trollinger ed.. 1995). Riley, a leading religious opponent of evolutionary teaching from the 1920s, wrote: "The greatest outrage against childhood in America is not being perpetrated by sweat factories, nor even by unfit and oppressive parents; the greatest outrage to American children, at this moment, is a mental outrage. To take little children, in the third grade, and teach them *The Early History of Man*, and bring them to believe that the manufactured and imaginary creations of such a book ever had a historic basis, is to willfully perpetrate a mental derangement." *id.* at 92.
43. See Numbers, *supra* note 41, at 44 [noting both the populist and religious aspects of Bryan's opposition to evolutionary teaching].
44. Larson, *Summer for the Gods*, *supra* note 29, at 44 [quoting William Jennings Bryan, "Speech to Legislature," in *William Jennings Bryan, Orthodox Christianity Versus Modernism* 46 (1923)].
45. *Id.*
46. William Jennings Bryan, *In His Image* 243 (1922).
47. *Id.*; see also William Jennings Bryan. "Applied Christianity," *Commoner*, May 1919, at 11 [invoking democracy in his address to ministers in Baltimore].
48. William Jennings Bryan & Mary Baird Bryan, *The Memoirs of William Jennings Bryan* 240 (1925) [quoting letter from William Jennings Bryan to friends (1894)].
49. Levine, *supra* note 34, at 55-56.
50. Letter from William Jennings Bryan to Charles S. Thomas, (Jul. 1, 1925), in William Jennings Bryan Papers, Library of Congress, Washington, D.C. [hereinafter Bryan Papers].
51. William Jennings Bryan, *Is the Bible True?* 15 (1923).
52. For estimates by current scholars of popular support at the time, see Levine, *supra* note 34, at 270-71; Numbers, *supra* note 41, at 44-45.
53. Levine, *supra* note 34, at 218 [quoting Bryan].

54. Bryan. *supra* note 46, at 122.
55. William Jennings Bryan, *Seven Questions in Dispute* 154 (1924).
56. *Id.*
57. See Levine, *supra* note 34, at 258.
58. William Jennings Bryan. "God and Evolution: Charge that American Teachers of Darwinism 'Make the Bible a Scrap of Paper.'" *N.Y Times*. Feb. 26. 1922, section 7, at 11.
59. William Jennings Bryan, "Prohibition" 133 *Outlook* 262, 263 (1923).
60. See Larson. *Summer for the Gods*, *supra* note 29, at 45-46.
61. William Jennings Bryan, Speech to Legislature, in *William Jennings Bryan, Orthodox Christianity Versus Modernism* 45-46 (1923).
62. "Edgar Lee Masters. "The Christian Statesman," 3 *American Mercury* 385, 391 (1924).
63. See Levine, *supra* note 34, at 278-88.
64. See Larson, *Trial and Error*, *supra* note 32, at 55-56.
65. See Levine, *supra* note 34, at 329-30.
66. See Larson, *Summer for the Gods*, *supra* note 29, at 60-83; Samuel Walker, *In Defense of American Liberties: A History of the ACLU* 72-73 (1990).
67. See Larson, *Trial and Error*, *supra* note 32, at 60.
68. The movie version of this production begins with a mob of townspeople led by a fundamentalist preacher arresting Scopes in his classroom. See *Inherit the Wind* (United Artists 1960). The play opens with Scopes already in jail, but suggests the earlier events. See Jerome Lawrence & Robert E. Lee, *Inherit the Wind* 5-9 (1955).
69. See Walker, *supra* note 66, at 18-25.
70. See *id.* at 23-29,
71. Woodrow Wilson, "An Address to a Joint Session of Congress" (Apr. 2, 1917), in 41 *The Papers of Woodrow Wilson* 519, 526 (Arthur S. Link ed., 1983).
72. *Id.*
73. Espionage Act of 1917, ch. 30, tit. 1. sec. 3.40 Stat. 219 (codified as amended at 18 U.S.C. sec. 2388 (1994)).
74. Sedition Act of 1918, ch. 75, 40 Stat. 553. repealed by Act of Mar. 3. 1921, ch. 136, 41 Stat. 1359: see also Walker, *supra* note 66, at 14.
75. Letter from Americans United Against Militarism to Woodrow Wilson. (Apr 16. 1917), in 26 American Civil Liberties Union Archives, Princeton University Library, Princeton. N.J. [hereinafter ACLU Archives]. The letter went on to warn, "It is possible that the moral damage to our democracy in this war may become more serious than the physical or national losses incurred." *Id.*
76. Telegram from Roger Baldwin to John R. Commons (Apr. 14, 1917), in ACLU Archives, *supra* note 75. Several similar telegrams with the same message but to different recipients are contained in this volume of the ACLU Archives.
77. Walker, *supra* note 66, at 23.
78. Norman M. Thomas, *War's Heretics: A Plea for the Conscientious Objector*. 33 *Survey* 391, 394 (1917).
79. See Walker, *supra* note 66, at 41.
80. See *id.* at 21.
81. See *id.*
82. See *id.* at 42.
83. See *id.*
84. See *id.*
85. See *id.* at 43-45.
86. See *id.* at 46.
87. *Id.* [quoting Baldwin].
88. Larson. *Summer for the Gods*, *supra* note 29, at 65.
89. Walker, *supra* note 66. at 47 [quoting Baldwin].
90. See Larson, *Summer for the Gods*, *supra* note 29, at 65.

91. See Walker, *supra* note 66, at 77.
92. The First Amendment begins with the words. "Congress shall make no law...." U.S. Const. Amend. I.
93. Const. Amend. XIV, sec. I.
94. For such an argument by a floor leader who presented what became the Fourteenth Amendment to the Senate, see John Hart Ely, *Democracy and Distrust: A Theory of Judicial Review* 25-27 (1980).
95. See John F. Nowak & Ronald D. Rotunda, *Constitutional Law* sec. 10.2, at 340 (5th ed. 1995).
96. See *Schenck v. United States*, 249 U.S. 47, 48-49, 53 (1919).
97. See *id.*, at 51-52.
98. See *Buck*, 274 U.S. 200 (1927): see also *supra* text accompanying note 25.
99. Gunther, *supra* note 40, at 163 [quoting letter from Oliver Wendell Holmes, Jr., to Learned Hand (Jun. 24, 1918)]. Commenting on Holmes's general deference to majoritarian lawmaking, Mary Dudziak notes: "In contrast with conservative 'activists' on the Court in his time who regularly overturned progressive era statutes regulating labor and the economy, Holmes placed a high premium on social experimentation through legislation and accordingly believed state legislatures and Congress should be left free to act as they might wish. Dudziak, *supra* note 24 at 835 (footnote omitted).
100. See generally Walker, *supra* note 66, at 5 1-71 [describing the ACLU's emphasis on free speech issues].
101. American Civil Liberties Union, *The Fight for Free Speech* 6, 8 (1921).
102. See Arthur Garfield Hays, *City Lawyer: Autobiography of a Law Practice* 17 (1942) [partially corroborating this account; [hereinafter Hays, *City Lawyer*].
103. See Arthur Garfield Hays, *Let Freedom Ring* 166-68 (Da Capo Press 1972) (1937) [hereinafter Hays, *Let Freedom Ring*].
104. Larson, *Summer for the Gods*, *supra* note 29, at 68.
105. See Hays, *Let Freedom Ring*, *supra* note 103, at 128-29; Walker, *supra* note 66, at 53.
106. See Hays, *City Lawyer*, *supra* note 102, at 337-88; Larson, *Summer for the Gods*, *supra* note 29, at 68.
107. Hays, *Let Freedom Ring*, *supra* note 103, at 20.
108. See generally Larson, *Summer far the Gods*, *supra* note 29, at 100-03, 206-10 [describing pre-trial and post-trial opposition to Darrow's handling of the Scopes defense]; Paul L. Murphy, *The Meaning of Freedom of Speech: First Amendment Freedoms from Wilson to FDR* 163-64 (1972) [noting the ACLU view that Darrow's defense failed to adequately emphasize free expression].
109. See Larson, *Summer for the Gods*, *supra* note 29, at 102, 209.
110. See *id.* at 112.
111. See *id.* at 115-18, 134-36.
112. "Butler Denounces 'New Barbarians,'" *N.Y. Times*, June 4, 1925, at 3.
113. In describing its efforts on behalf of free speech during the interwar years, Paul L. Murphy notes that the ACLU worked with individual episodes that tended to dramatize a broad legal problem and viewed the Scopes trial as just such an episode. See Murphy, *supra* note 108, at 132.
114. John Dewey, "The American Intellectual Frontier," 30 *New Republic* 303, 303 (1922).
115. *Id.*
116. *Id.* at 305.
117. *Id.*
118. See *id.* at 303-05; see also John Dewey, "Public Opinion," 30 *New Republic* 286, 286 (1922) [agreeing that public opinion is shaped not by informed autonomous thinking, but rather by stereotype, tradition, and emotion].
119. Frederick Lewis Allen. *Only Yesterday: An Informal History of the Nineteen Twenties* 171 (Perennial Library ed., Harper & Row 1964) (1931).
120. See Richard Hofstadter. *The Age of Reform: From Bryan to F.D.R.* 286 (1955); Richard Hofstadter et al., *The United States: The History of a Republic* 696-97 (2d ed. 1967); William E. Leuchtenburg, *The Perils of Prosperity. 1914-1932*, at 217-23 (1958); Samuel Eliot Morison et al., *A Concise History of the American Republic* 588-899 (1977). A half-dozen other collegiate textbooks published between 1960 and 1995 contain similar accounts of the trial.

121. Lawrence & Lee, *supra* note 68. Here, the character playing the role of Scopes asks, “Did I win or did I lose?” The character playing the role of Darrow replies, “You won.” “But the jury found me —,” Scopes counters, to which Darrow declares, “What jury? Twelve men? Millions of people will say you won. They’ll read in their papers tonight that you smashed a bad law. You made it a joke!” *Id.*
122. See, e.g., *id.* at 122-26. 148-50.
123. See generally Laurence H. Tribe, *American Constitutional Law* sections 11-2, 12-10, at 849-56 (2d ed. 1988) [describing the selective incorporation of the Bill of Rights and the clear and present danger tests for speech].
124. See *id.* section 12-5, at 817 [noting that the Court is particularly vigilant regarding legislative purpose “in cases involving the Establishment Clause or possible racial discrimination”].
125. See Larson, *Trial and Error*, *supra* note 32, at 97-98.
126. U.S. Const. Amend. XIV. section 1.
127. “The Conduct of the Scopes Trial,” 43 *New Republic* 331, 332 (1925).
128. See *Gitlow v. New York*, 268 U.S. 652, 666 (1925).
129. See *Everson v. Board of Educ.*, 330 U.S. 1, 15-16 (1947).
130. See *Abington School Dist. v. Schempp*, 374 U.S. 203, 205 (1963) [Bible reading]; *Engel v. Vitale*, 370 U.S. 421, 424 (1962) [school prayer]; *McCullum v. Board of Educ.*, 333 U.S. 203, 212 (1948) [religious instruction]. Following these decisions, the ACLU annual report stated. “[W]e are confident that when more sectarian religious practices are brought to the Court’s attention, they likewise will be declared unconstitutional.” *American Civil Liberties Union, Freedom Through Dissent: 42nd Annual Report* 22 (1963).
131. 393 U.S. 97 (1968).
132. See Brief of American Civil Liberties Union and American Jewish Congress at 2-3, *Epperson v. Arkansas*, 393 U.S. 97 (1968) (No. 7) [discussing ACLU participation as interested amicus curiae; hereinafter “ACLU Brief”].
133. Justice John M. Harlan’s law clerk anticipated this development in his memorandum on the appeal application. See Louis R. Cohen, “*Epperson v. Arkansas*” (December 1967) at 3, in John Marshall Harlan Papers, Princeton University Library, Princeton N.J.
134. Brief for Appellants at 8, *Epperson* (No. 7).
135. Brief for Appellee at 1, 28-31, *Epperson* (No. 7).
136. ACLU Brief, *supra* note 132.
137. See Transcript of Oral Arguments at 14, *Epperson* (No. 7) [hereinafter *Epperson* Transcript].
138. See, e.g., Court Rules in a “Scopes Case,” *U.S. News & World Rep.*, Nov. 25, 1968, at 16 [comparing the Arkansas case to the Scopes case].
139. See Larson, *Trial and Error*, *supra* note 32, at 113-14; *Scopes v. State*, 278 SW. 57 (1925).
140. See Notes (Oct. 18, 1968), *Epperson v. Arkansas*, 393 U.S. 97 (1968) (No. 7) in Abe Fortas Papers, Princeton University Library, Princeton, N.J. [hereinafter Fortas Papers].
141. See *Epperson* Transcript, *supra* note 137, at 7. All but acknowledging the statute’s lack of religious effect, Fortas wrote in the initial handwritten draft of his opinion, “For our purposes, it is unimportant that the theory of evolution continues to live and so command substantial adherence, probably even in Arkansas’ publicly supported institutions of learning.” Handwritten Draft (Oct. 26, 1968), *Epperson v. Arkansas*, 393 U.S. 97 (1968) (No. 7) in Fortas Papers, *supra* note 140.
142. *Epperson*, 393 U.S. at 102.
143. *id.* at 108-09 [quoting the Anti-Evolution Act, 1925 Tenn. Pub. Acts ch. 27],
144. See *id.* at 102 nn. 9 & 10, 107 n. 15.
145. See *id.* at 109.
146. *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971). The Supreme Court first suggested that an unduly religious purpose could serve as the basis for striking down legislation six years earlier in a series of decisions involving Sunday closing laws, but after an exhaustive search, the Court found no wrongful purpose underlying those laws. See *McGowan v. Maryland*, 366 U.S. 420, 431-44 (1961); *Braunfeld v. Brown*, 366 U.S. 599, 607 (1961); *Two Guys v. McGinley*, 366 U.S. 582, 594-98 (1961); *Gallagher v. Crown Kosher Market*, 366 U.S. 617, 624-30 (1961). It

repeated this threat in its landmark 1963 school prayer decision, *Abington School District v. Schempp*, 374 U.S. 203, 222 (1963), but again did not rule on this basis. See *id.* at 223-26. Legislative motivation as a basis for invalidating statutes had been out of favor with the Court since the 1930s. See, e.g., *United States v. Darby*, 312 U.S. 100, 113-16 (1941); *Sonzinsky v. United States*, 300 U.S. 506, 513-14 (1937). By the 1960s, however, it began to surface in Court decisions involving racial discrimination. See, e.g., *Gomillion v. Lightfoot*, 364 U.S. 339, 347 (1960).

147. See *Lemon*, 403 U.S. at 612.

148. Letter from Gerald Gunther to Edward J. Larson (Nov. 17, 1995) [on file with the Virginia Law Review Association].

149. Letter from Charles Alan Wright to Edward J. Larson (Nov. 21, 1995) [on file with the Virginia Law Review Association].

150. Of course, heightened judicial concern focuses on other legislative purposes as well. In his analysis of the issue, however, John Hart Ely describes racial and religious motives in lawmaking as the two legislative purposes that led the Supreme Court to resurrect motivation as a basis for striking statutes. See John Hart Ely, "Legislative and Administrative Motivation in Constitutional Law," 79 *Yale L. J.* 1205, 1208-09 (1970).

151. *Epperson*, 393 U.S. at 113 [Black, J., concurring].

152. *Id.* At 112-13 [Black, J., concurring].

153. *Id.* at 109. For the added language, compare the published opinion with Fortas's handwritten draft dated October 26, 1968, in Fortas Papers, *supra* note 140.

154. ACLU National Board member and newspaper columnist Nat Hentoff regularly criticizes the ACLU for seeing such particular darkness with respect to religious speech, especially in the public school context, where it sees nothing but light in other forms of speech. For example, commenting on ACLU opposition to a federal law protecting student-initiated religious speech, Hentoff has written: "Students — I have heard ACLU board members say — are too impressionable to know the difference between state-sponsored and student-initiated religious speech. Yet the ACLU believes devoutly that students are astute enough to run high school papers without giving principals such Draconian censorship powers as the *Hazlewood* decision did. This lapse in logic is based on the conviction of the majority of the ACLU board that religious speech must never be allowed inside public schools lest, like an octopus, it eventually enfold the whole building and everyone in it." Nat Hentoff, "The Enemy Within the ACLU," *Wash. Post*, Nov. 27, 1988, at D7. For a recent editorial expressing Hentoff's continuing view that the ACLU is "confused about students' religious speech rights in public schools," see Nat Hentoff, "A Zero for Jesus in a Public School," *Wash. Post*, Jan. 26, 1996, at A23.

155. Delgado, *supra* note 31, at 2411-12 (footnotes omitted).

156. *Id.* at 2413.

157. *Id.* at 2411 n.4. [citing Meisol, "A New Genre of Legal Scholarship: Storytelling Feminist Takes on the Fundamentals of Law," *L.A. Times*, Oct. 7, 1988, part V, at 8 (quoting Robin West)].

158. See Murphy, *supra* note 108, at 132.

159. See Butler Denounces "New Barbarians," *supra* note 112, at 3.

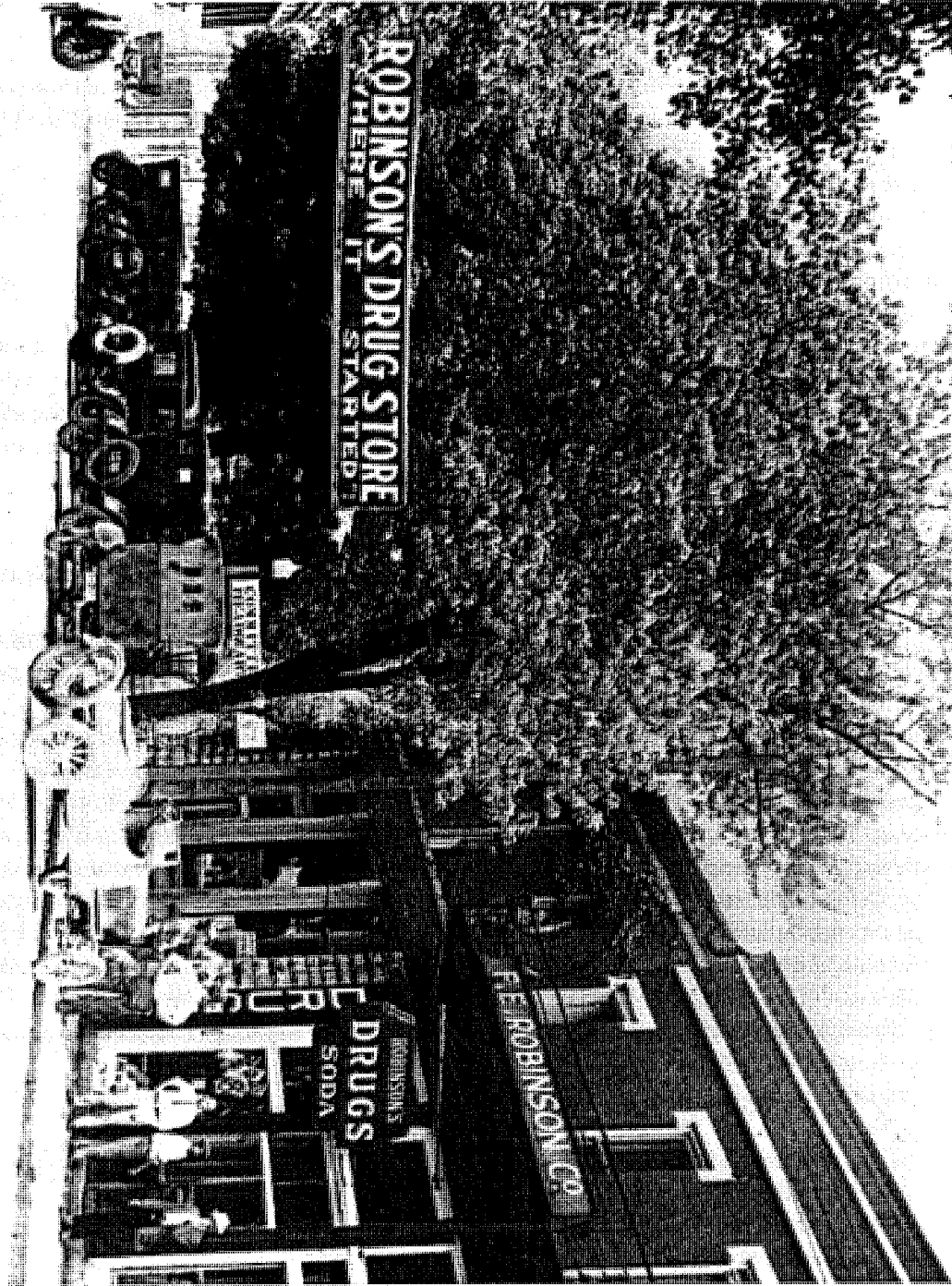
160. See Horace Coon, *Columbia: Colossus on the Hudson* 126-31 (1947).

161. Steven L. Winter, "The Cognitive Dimension of the Agon Between Legal Power and Narrative Meaning," 87 *Mich. L. Rev.* 2225, 2228 (1989).

162. ACLU recognition that Scopes offered an ideal defendant for its narrative purposes is reflected in Hays, *Let Freedom Ring*, *supra* note 103, at 33.

163. Confirming this objective of using the trial to create a narrative that would vilify fundamentalists rather than use it simply to defend Scopes, Clarence Darrow wrote in his autobiography about his trial strategy for the Scopes trial, "My object. . . was to focus the attention of the country on the programme of Mr. Bryan and the other fundamentalists in America." Clarence Darrow, *The Story of My Life* 249 (Legal Classics Library 1988) (1932).

164. Lawrence & Lee, *supra* note 68, at 153.



Robinson's Drug Store on Main Street in Dayton is where local plans for the Scopes Trial were made and where John Scopes was recruited to be the defendant. Robinson's was the school book depository and sold Hunter's *Civic Biology*, the textbook Scopes allegedly used. Crowds gathered at the drug store to buy copies of out-of-town newspapers delivered during the trial.

How the Scopes Trial Changed Biology Textbooks

By Randy Moore

Randy Moore is Professor of Biology at the General College of the University of Minnesota. He also is the editor of The American Biology Teacher, official journal of the National Association of Biology Teachers. For this publication in 1998-99, he wrote a series of eight articles and two lengthy editorials concerning the creation/evolution controversy. These endeavors have helped make Dr. Moore one of the leading spokesmen for evolution in the United States today. He has taught at universities in Texas, Ohio, and Kentucky. The following essay is an updated version of a paper presented at a symposium on "The Scopes Trial: A Challenge for American Education" on July 17, 1998, in the Scopes Trial Courthouse at Dayton, Tennessee.

I think that scientists [can] explain what evolution is.

— Clarence Darrow, 10 July 1925 (Day One of the Scopes Trial)

The publication of Charles Darwin's *On the Origin of Species by Means of Natural Selection* in 1859 (Darwin 1859) began a scientific revolution that changed many people's view of the world. Although Darwin's ideas were controversial, in the United States he had a powerful advocate: Harvard's Asa Gray, an evangelical Christian who was America's leading botanist and president of the American Association for the Advancement of Science (of which William Jennings Bryan was a member). Gray, who arranged for the publication of *Origin* in the United States, espoused a progressive, God-driven evolution of life. Although some people were disturbed by Darwin's ideas, Gray's reconciliation of God and evolution eased many people's concerns about evolution (see Scott 1994; Moore 1997 and references therein).¹ However, early in the twentieth century those concerns resurfaced, for by the end of World War I, religious attitudes in the United States had shifted. A perceived decline in morality, along with a collective longing for the seeming simplicity of pre-war life, prompted many people to re-examine and increasingly rely on their religious faith for comfort and stability. Religious fundamentalism, based on a literal interpretation of the Bible, became increasingly popular.²

In the 1920s, religious fundamentalists tried to translate their beliefs into political reform and thereby save the nation's morality. After a successful campaign to outlaw liquor, fundamentalists set out to eliminate discussions of evolution in public schools. Led by religious leaders such as William Bell Riley, Aimee Semple McPherson, and — most prominently — William Jennings Bryan, fundamentalists began a campaign that labeled Darwin's ideas as being responsible for the decline of the nation's morality. Fundamentalist preachers such as Billy Sunday (a former Chicago Cubs outfielder) used theatrical services to link evolution with eugenics, prostitution, and crime; Aimee Semple McPherson presided at ritual hangings of "monkey teachers"; other preachers claimed that Darwin's ideas promoted the four "p's": prostitution, perversion, pornography, and permissiveness (Gould 1983, Larson 1997, de Camp 1969). According to fundamentalists, antievolution laws represented a return to pre-war normalcy, just as creationism in the public schools represented a public validation of a populist lifestyle (Larson 1997; Taylor and Condit 1988).

In many places, fundamentalists tried to ban the teaching of evolution in public schools by targeting teachers. For example, Tennessee's Butler Law — the law that John Scopes was convicted of violating — made it a crime "to teach any theory that denies the story of the Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals." Although the law didn't mention textbooks, fundamentalists knew that textbooks (along with teachers) were the driving forces behind a curriculum. Consequently, funda-

mentalists' campaigns often targeted textbooks. For example, on 24 March 1923, and with little fanfare, Oklahoma Governor John C. Walton (a progressive Democrat) signed America's first antievolution law; that law offered free textbooks to public schools whose teachers would not mention evolution.³ In 1924, the North Carolina Board of Education — with the governor's support — barred public schools from using biology textbooks that presented an origin for humans that differed from that described in the Bible (Larson 1989). Despite these acts, it was the Scopes trial — 43 years after Darwin's death — that would have the largest impact on biology textbooks and, therefore, on biology teaching.

Biology Textbooks Before the Scopes Trial

In the early 1900s, biology textbooks were characterized by a diverse coverage of evolution. A few textbooks did not mention the word evolution (e.g., Hunter's *Elements of Biology* published in 1907; Peabody and Hunt's *Elementary Biology*, published in 1913), whereas other textbooks included entire chapters about evolution. In most textbooks, however, evolution was featured prominently — so much so that William Jennings Bryan complained that he could not find “any text book on biology which does not begin with monkeys” (Numbers 1992). Indeed, one textbook, *The Elementary Principles of General Biology* (Abbott 1914), dedicated more than 8,000 words to topics related to evolution. Some authors presented evolution with extraordinary assurance; as H.H. Newman wrote in *Outlines of General Zoology* (Newman 1924), “There is no rival hypothesis to evolution, except the out-worn and completely refuted one of special creation, now retained only by the ignorant, dogmatic, and the prejudiced.” Newman would learn that many people — some biologists included — disagreed.

How can we explain this diversity of books? Before Scopes' trial, some authors considered the topic of evolution to be too difficult for high school students. Biology authors J.E. Peabody and A.E. Hunt, who excluded evolution from many of their textbooks (e.g., *Biology and Human Welfare*, published in 1924), argued that evolution was better suited for coverage in advanced rather than introductory courses. Hunter (1911), who claimed that “abstractions are not a part of the thought of a first-year pupil,” stated that discoveries such as Mendel's (and presumably Darwin's) were “too difficult to explain to high school pupils.” Other authors excused their caution by citing a report by the College Entrance Examination Board claiming that a thorough treatment of evolution might be too difficult for high school students (Grabiner and Miller 1974). Although authors of biology textbooks may have, in fact, considered Darwin's ideas to be “too difficult” for high school students, this could also have been a convenient excuse; after all, Darwin's ideas would not seem to be any more abstract than the Greek, Latin, ancient history, philosophy, and other courses included in the classical curriculum popular during that time (see Skoog 1979). The publication of sanitized textbooks at precisely the time when some legislatures had passed, and others were considering, antievolution laws was no coincidence (Grabiner and Miller 1974).

In 1925 in Dayton, Tennessee, John Scopes was a coach and substitute science teacher. Students in a biology class that he taught used a textbook entitled *A Civic Biology: Presented in Problems*, by George William Hunter (Hunter 1914). Hunter made clear his view that evolution was a reality; he used the word evolution, and credited the theory of evolution to Darwin. Hunter's book was a best-seller, despite the fact that it included sections entitled “The Doctrine of Evolution,” “Evolution of Man,” and “Charles Darwin and Natural Selection.” Other biology textbooks popular at the time of Scopes' trial (e.g., Moon's *Biology for Beginners*, published in 1921) also included several chapters about evolution (although several of these books depicted evolution as a progressive process by which organisms became “more-perfect” organisms).

Moon's *Biology for Beginners* (1921) even identified evolution as a fundamental and unifying concept of biology, noting that "both man and the apes are descended from a common ancestor from which both lines have developed." Similarly, Linville's *The Biology of Man and Other Organisms* (1923) claimed that "so generally is the validity of the theory admitted that it is often called the law of evolution," and Trafton's *Biology of Home and Community* (1923) argued that "the theory of evolution. . . is universally accepted by scientists as fact, and we rarely hear any arguments about its truth. The matter about which scientists now disagree is related to the question of how evolution takes place; but the fact of evolution no scientist doubts." Interestingly, neither of these textbooks (i.e., Linville's *The Biology of Man and Other Organisms* and Trafton's *Biology of Home and Community*) was a best-seller, and neither was revised or republished in the 1930s (Skoog 1979). The best-selling books were those such as Hunter's, which dedicated fewer words to evolution and which lacked the bold statements that distinguished the books by Linville and Trafton. Indeed, bold statements such as those made by Linville and Trafton would not reappear in a popular biology textbook until the 1960s.

The Immediate Impact of Scopes' Conviction on Biology Textbooks

After John Scopes was convicted in 1925, textbook publishers and school boards throughout the country became reluctant to deal with evolution. Simultaneously, the amount of evolution taught in public schools decreased dramatically (Larson 1989), and virtually all publishers removed Darwin's ideas about evolution as the unifying theme of life from their biology books (Troost 1967; Grabiner and Miller 1974). Within a few months after Scopes' trial, Texas Governor Miriam Ferguson — the first female governor in the South — ordered her state's textbook commission to cut out (with scissors) the pages containing discussions of the theory of evolution from its high school biology textbooks (for years, this ban forced publishers to produce special, sanitized books for use in Texas).⁵ The following year, the Louisiana Superintendent of Education took a similar step. Meanwhile, Tennessee abandoned George Hunter's popular textbook (i.e., the textbook that Scopes used in Dayton) soon after Scopes was indicted. The publisher of Hunter's textbook gave it a new title — *New Civic Biology*, presumably to distinguish it from the previous edition that was linked with the Scopes verdict. Hunter himself was concerned that publicity from the Scopes trial would drive his book from the classroom. Thus, when writing his new book, Hunter deleted the section on evolution, deleted charts showing the evolution of species, downplayed the contributions of Darwin to the "development" of species (some of the credit was given to Hugo de Vries), and added vague qualifiers such as "suggested" and "believed" when describing evolution. The discussion of humans' place in nature began with a newly added sentence, "Man is the only creature that has moral and religious instincts." The complaint by the World's Christian Fundamentals Association's Textbook Commission that "One of the greatest needs of the day is suitable textbooks on the physical and biological sciences, written by authors who are not obsessed with theories that are harmful to the young people of our schools" (Report of the Textbook Committee 1928) was addressed by mainstream publishers. After Scopes' conviction, the word evolution disappeared from Hunter's book, as it did from most other biology textbooks.⁶ By 1929, even fundamentalist preacher George McReady Price agreed that "virtually all textbooks on the market have been revised to meet the needs of the Fundamentalists" (Price 1929).

The 1926 revision of Moon's *Biology for Beginners* also showed the dramatic impact of the Scopes trial on biology textbooks. This impact is most evident in the frontispiece: whereas a portrait of Charles Darwin dominated the frontispiece of the 1921 edition, the 1926 version

replaced Darwin with a somewhat less controversial image: a cartoon of the digestive system. Other changes, such as the replacement of “evolution” with “development,” were common in Moon’s book and others. Many of the sanitized books (including Hunter’s) were revised and republished in the 1930s. Books that stressed evolution (e.g., Alfred Kinsey’s *Introduction to Biology*) either sold poorly or became extinct (Grabiner and Miller 1974; Skoog 1979). By 1940, most high school biology teachers did not include evolution in their courses (Godfrey 1983; Futyna 1983), thereby prompting a biologist to note that “biology is still pursued by long shadows from the middle ages, shadows screening from our people what our science has learned of human origins . . . a science sabotaged because its central and binding principle displaces a hallowed myth” (Riddle 1941).

The Long-term Impact of Scopes’ Conviction on Biology Textbooks

During the 1940s and the decades that followed, evolution slowly began to reappear in biology textbooks. Interestingly, some biology textbooks also began to include religious quotations; groups such as the California State Board of Education argued that these quotations made biology textbooks worthy of adoption because the quotations showed that the books were “tactfully written” and presented evolution as a “theory and not as an established fact” (see Grabiner and Miller 1974). The best-selling textbooks continued to downplay or ignore evolution; for example, the best-selling biology textbook in the 1930s (Baker and Mills’ *Dynamic Biology* published in 1933) did not include the word evolution, nor did it include any information about the evolution or fossil record of humans. Indeed, *Dynamic Biology* included an attack on evolution, likening Darwin’s ideas with Lamarck’s and claiming that Darwin’s theory was “no longer generally accepted.” That attack on Darwin was followed by a tribute to God. The popularity and commercial success of *Dynamic Biology* exemplified the general situation in the 1930s. Textbook publishers, afraid of antagonizing conservative Christians, said as little as possible about evolution in their textbooks (Numbers 1992).

Virtually all textbooks published in the 1930s and 1940s claimed to emphasize principles of biology, but none included evolution as one of those principles. If it was included in textbooks at all, evolution was presented as an afterthought, always near the end the textbook. The “evolution unit” of many of today’s textbooks remains near the end of the books.

About two decades after Scopes trial, authors of some biology textbooks again made a few bold statements about the validity of evolution. For example, E.T. Smith (1949) wrote in *Exploring Biology* that “modern biologists accept evolution as proved,” and other authors attacked views that opposed evolution. These textbooks were rarely popular. The best-selling books presented a much more conservative treatment of evolution (Skoog 1979).

In the late 1940s, many authors reduced their treatments of human evolution; for example, the nearly 1,000 words that Hunter devoted to evolution in 1941 were reduced to about 235 words in the following edition (Skoog 1979). Some authors even tried to reconcile evolution and Genesis. For example, Hunter (1941) stated in *Life Sciences: A Social Biology* that “Later one-celled green plants must have come into existence and then one-celled animals, which feed on the green plants and bacteria.” In 1949, a similar statement was extended with the addition of the line, “As you see, if you turn to the first chapter of Genesis, this is the order of Creation.”

In the late 1950s, many textbooks continued to avoid mentioning the word evolution. If mentioned, evolution was usually described timidly with abstractions and euphemisms (e.g., “change” and “development”) and, as in earlier textbooks, was always in the final chapters of the book. For example, the 1956 version of Moon’s *Modern Biology* devoted only one page to evolution, which it referred to as “racial development,” and said nothing about human origins.

The evidence supporting evolution received less coverage in books published in the 1950s than it had in books published in the 1940s (Skoog 1979). As the 1950s came to a close, there was no evidence in textbooks that evolution was regarded as a major concept in biology. On the contrary, biology textbooks and biology teaching in public schools — according to one prominent biologist — were dominated by “antiquated religious traditions” (Muller 1959).

How the BSCS Changed Biology Textbooks

In the late 1950s, policy-makers in the United States became concerned that our nation’s scientific and technological abilities had been eclipsed by those of the Soviet Union. These concerns were heightened by the Soviet Union’s launch on 4 October 1957 of Sputnik I, the first orbiting artificial satellite. This launch announced to America that nature’s secrets — unlike political secrets — cannot be concealed and that no nation holds a monopoly on the laws of nature (Shermer 1997). In response to these concerns, President Dwight Eisenhower requested (and Congress passed) the National Defense Education Act of 1958, which encouraged the National Science Foundation to fund and develop state-of-the-art science textbooks.⁷ The most important collaboration to result from this legislation involved the Biological Sciences Curriculum Study (BSCS), which was created in 1959 at the University of Colorado by a \$7 million grant from the National Science Foundation. After testing in more than a thousand schools, the BSCS in 1963 produced three versions of a high school biology textbook, each identified by the color that dominated its cover (i.e., green, blue, yellow). Biologists who wrote those books were shocked when they reviewed the competition; as noted by famed biologist George Gaylord Simpson, “One hundred years without Darwin are enough.” In fact, the 100 years were not those since Darwin’s *Origin*; rather, they were the 35 years since the Scopes Trial (Grabiner and Miller 1974). BSCS was determined to base their textbooks on the best science available rather than the consensus-driven, bland “evolutionless” biology that typified most other textbooks (Godfrey 1983).

The BSCS books, along with their revisions in 1968, stressed evolution as the unifying theme of biology and gave unprecedented attention to the importance of and evidence for evolution. The BSCS authors wove evolution into their books as “the warp and woof of modern biology” (Nelkin 1992, Grobman 1969, and references therein). In simplest terms, the BSCS books “put evolution back in the biology classroom.”

Not surprisingly, the BSCS books were attacked. Some of the attacks came from creationist biology teachers such as Rita Ward, who complained that the books made God unnecessary and stopped just short of atheism (Ward 1965). However, the harshest attacks occurred in Texas, where — thanks to the efforts of Mel and Norma Gabler, two self-appointed textbook censors from Longview — the books were denounced in newspapers, in church sermons, and at hearings of the Texas Textbook Commission (Grabiner and Miller 1974). BSCS refused to concede to creationists’ demands, and by 1969 two of the three books originally adopted in Texas were dropped from the “approved list”; similar losses of adoptions occurred elsewhere when protesters raised objections (Godfrey 1983; Nelkin 1982). Attacks on the BSCS books caused some moderation of the books’ discussions of evolution; for example, in 1963 the word *suggests* was substituted for *dramatically shows* in a discussion about the fossil evidence for evolution. Similarly, the statement “throughout this book it will be evident that the theory of evolution by natural selection is the major framework of modern biology” appeared in 1968 but not in 1973. Despite these changes, the centrality of evolution (and its extensive coverage) remained in the BSCS books. Thanks to the endorsement of the federal government, increased interest in public education, and legal precedents limiting religious influences in public schools (i.e., the same forces that helped overturn Tennessee’s Butler Law in 1967; see Grabiner and Miller 1974), the BSCS books be-

came popular. Indeed, by 1970, BSCS books had been adopted in almost half of American high schools. These adoptions occurred throughout the country, including in the three southern states having antievolution laws: Tennessee (whose antievolution law was passed in 1925), Mississippi (whose antievolution law was passed in 1926), and Arkansas (whose antievolution law was passed in 1928; see Grobman 1969; Skoog 1979).⁸ The BSCS books transformed the profile of high school biology textbooks.

Commercial publishers, trying to keep up with BSCS, began reinstating evolution in their books. This re-emphasis of evolution in biology textbooks did not go unchallenged. For example, in 1968 the U.S. Supreme Court ruled that it was unconstitutional to ban the teaching of evolution (*Epperson v. Arkansas*, 393 U.S. 97 [1968]). This decision caused creationists to change their tactics: rather than continue to try to ban evolution from classrooms and textbooks, creationists tried to ensure that “alternate theories” — especially the Biblical version of creation — be given “equal time” and “balanced treatment.” These efforts often involved textbooks. For example, Tennessee’s 1973 “Genesis Bill” was restricted to books; teachers were not mentioned in the legislation. According to that law, evolution was to be presented as a theory, not a fact, and other viewpoints (e.g., Genesis) were to be given equal emphasis. This statute was declared unconstitutional in 1975 by Tennessee’s Sixth Circuit Court of Appeals (*Daniel v. Waters*, 515 F.2d 485 [Sixth Cir. 1975]). Subsequent attempts to legislate the legitimacy of “creation science” had a similar fate (*McLean v. Arkansas Board of Education*, 529 F. Supp. 1255, 50 [1982] U.S. Law Week 2412). Although William Jennings Bryan supported creationism and evolution being given equal emphasis (Cornelius 1990), the courts have not; for example, the U.S. Supreme Court struck down Louisiana’s “Balanced Treatment” Act in 1987 (*Edwards v. Aguillard*, 482, U.S. 578, 55 [1987] U.S. Law Week 4860, S. CT 2573, 96 L. Ed. 2d510).

Given the strong public support for creationism, it wasn’t long before creation-based biology textbooks appeared on the scene. One of those books was Moore and Slusher’s (1970) attractive *Biology: A Search for Order in Complexity*, a high school biology textbook produced by the Creation Research Society that promoted what came to be known as the “two-model approach” (i.e., the “evolution model” and the “creation model”), adding that “a choice between these two models may be made in terms of the effectiveness with which each may be used to correlate available data.”¹⁰ That book included contributions by various biologists, some of whom later helped write *A Critical Look at Evolution* (Camp 1972), a book edited by a Church of Christ preacher (Numbers 1992). *Biology: A Search for Order in Complexity* (now out-of-print) promoted the Biblical story of creation and was strongly antievolution, as evidenced by statements such as “There is no way to support the doctrine of evolution,” “a primary purpose of science should be to learn about God’s handiwork,” and “it is explicit throughout the text that the most reasonable explanation for the actual facts of biology as they are known scientifically is that of Biblical creationism.” Several public schools adopted *Biology: A Search for Order in Complexity*; all 10,000 copies in the first printing sold within a few months, prompting Zondervan (the book’s Christian publisher) to print an additional 25,000 copies (Numbers 1992). However, in Indiana, where the book was adopted over the objections of teachers and parents, a court ruled that the use of *Biology: A Search for Order in Complexity* in public schools was unconstitutional because it violated the separation of church and state. As one judge noted, “The question is whether a text obviously designed to present only the view of Biblical Creationism in a favorable light is constitutionally acceptable in the public schools of Indiana. Two hundred years of constitutional government demand the answer be no” (Larson 1989).

In the late 1970s, publishers again responded to creationists’ complaints by reducing the coverage of evolution in their biology textbooks. For example, between 1974 and 1977, a section

about Charles Darwin in *Biology* (published by Silver Burdett) was cut from 1373 words to 45 words, the discussion of the origin of life cut from 2023 words to 322 words, and the discussion of Charles Darwin's views of evolution cut from 2750 words to 296 words. Sections on fossil formation and geological eras disappeared completely. Similarly, the sentence that stated "Scientists do not doubt that organisms living today descended from species of previous ages" in the 1973 edition of *Modern Biology* (published by Holt, Rinehart, and Winston) was deleted in the 1977 edition. Whereas the 1969 edition of *Modern Biology* said that "Modern man has probably evolved from primitive, more generalized ancestors," the 1977 edition stated that "Darwin was suggesting that humans may also have evolved from less specialized ancestors." The changes prompted a variety of comments. A biology textbook editor admitted that "We try not to say the word evolution very much," and Wayne Moyer, the Executive Director of the National Association of Biology Teachers, added that "We have done a botched job of teaching evolutionary theory." Chemist Russell Doolittle lamented the status of science education: "At first I couldn't understand the gullibility of people. It took me a while to understand that the average American is not equipped to combat this sort of thing. The tragedy of it all is the state of science education in the country — it's simply, sadly, awful." Biology teacher Frank Spica had a simpler explanation: "The creationists have won. They've not passed any legislation, but they've got the textbooks changed" (Pierce 1981).

In the 1980s, several court cases questioned, at least in part, the use of evolution-based biology textbooks in public schools. For example, the Sacramento Superior Court found that the California State Board of Education gave sufficient accommodation to religious views of students, contrary to claims that biology classes prohibited parents and their children's free exercise of religion (Segraves California, No. 27898. Sacramento Superior Court, 1981; for other such cases, see Moore 2000 and references therein). In 1980, creationism was an official part of the curriculum in several states (e.g., Wisconsin, Missouri, South Dakota), and in many other states "equal time" had a de facto endorsement (Gorman 1980). When a California court ruled in the early 1980s that evolution be taught as a "theory" instead of as a "fact," publishers quickly complied; as Lois Arnold, the senior science editor at Prentice Hall explained, "We don't advocate the idea of scientific creationism, but we felt we had to represent other points of view" (see Godfrey 1983). Another editor who had quickly inserted religion into his company's science textbooks excused his actions by noting that "we are in the business of selling textbooks" (Gorman 1980).

Biology Textbooks Today

In 1973, Theodosius Dobzhansky wrote in *The American Biology Teacher* that "Nothing in biology makes sense except in the light of evolution" (Dobzhansky 1973). Given this emphasis on the importance of evolution in understanding life, no publisher of a popular biology textbook has eliminated its coverage of the topic. That is, all of today's best-selling biology books include evolution as a major theme of biology. However, publishers remain concerned about how evolution is presented in biology textbooks. The "evolution unit" remains the most sensitive area of high school biology textbooks, and many publishers often resort to euphemisms such as "change" and "development" to ease the emphasis of the topic.

A variety of people and groups continue to subvert the teaching of evolution. For example, politicians and administrators in several states have required or suggested the insertion of disclaimers (e.g., stating that evolution is "only a theory") in biology classes and textbooks.¹¹ This concern about evolution is not limited to politicians and publishers; indeed, many teachers — regardless of the textbook they use — know little about evolution, and therefore teach the

topic either poorly or apologetically. Other teachers do not teach evolution at all, either because they do not know enough about the topic, because they are intimidated by antievolution politicians and/or administrators, or because they are creationists who reject evolution altogether. In these instances, textbooks are relatively insignificant. For most biology teachers, however, today's evolution-based textbooks are important parts of the curriculum.¹²

Summary

As noted by Grabiner and Miller (1974), "The impact of the Scopes trial on high school biology textbooks was enormous." After the trial, the topic of evolution disappeared from most textbooks. Coverage of evolution gradually returned during the next few decades, but evolution was not presented as an important principle until the publication of the BSCS textbooks in the early 1960s. Those textbooks, and most textbooks since, have positioned evolution as a unifying theme of biology. Despite these changes in textbooks, many teachers present evolution poorly, apologetically, or not at all (Christensen 1998, Weld and McNew 1999, Moore 2000). All of these changes in biology textbooks (and the resulting teaching of biology) can be traced to the trial of John Scopes.

Notes

1. Gray's *First Lessons in Botany and Vegetable Physiology* (1857; later renamed *The Elements of Botany*) was the leading botany text of the late 19th century and was the first high school text after the publication of *Origin* to include Darwin's ideas about evolution. Gray, who was America's foremost Darwinist, was the only American taken into Charles Darwin's confidence prior to the publication of *Origin* (Larson 1989).
2. Fundamentalists got their name from a series of 12 small pamphlets (containing 90 articles) entitled *The Fundamentals* that were written between 1910 and 1915. These pamphlets proclaimed biblical literalism as the antidote to "modernism." Millions of the pamphlets were given away (Larson 1989). This project was financed by Lyman and Milton Steward, who founded the Union Oil Company (Clouse 1995).
3. William Jennings Bryan didn't learn about the Oklahoma law until after it passed, even though it had been done in his name. Oklahoma's anti-evolution law was repealed soon after Walton was impeached in 1925. America's second anti-evolution measure became effective on 25 May 1923 in Florida, but it did not have the force of law or any significant impact on teaching. Indeed, the measure was hardly noticed by the press (Larson 1989).
4. In fact, Scopes was not even in school on the day listed in the indictment (he had assigned the evolution chapter on 23 April, but was sick the next day and the class recitation never took place). That is, Scopes didn't "teach" evolution; he merely assigned the offending pages as part of a review for an exam (Larson 1997). The textbook by Hunter, a former biology teacher, was sold at Robinson's drugstore and was the state-approved text in Tennessee high schools (Dayton schools had used the book since 1919). Hunter's book — oriented toward public health rather than theoretical biology — was blatantly racist; in its discussion of five races of humans, Hunter concluded that "the Caucasians represented by the civilized white inhabitants of Europe and America" were "the highest type of all."
5. Ferguson was actually a stand-in for her husband James, a former governor who had been impeached in 1917 as a result of a road-contract scandal (de Camp 1968). As head of the state textbook commission, Ferguson approved Truman J. Moon's *Biology for Beginners*, but only after three chapters that mentioned evolution were deleted. Contracts permitting the removal of offensive pages were arranged with such publishers as Henry Holt, Macmillan, and Allyn & Bacon (Ginger 1958). Ferguson proclaimed that "I'm a Christian mother who believes Jesus Christ died to save humanity, and I am not going to let that kind of rot go into Texas textbooks" (de Camp 1968).

- The commission threatened to fire any teacher using books that had not been approved.
6. The only pre-Scopes biology textbook approved by the committee was George Baitsell's *Manual of Biological Forms* (1923) because the book included "no speculation on evolution" (also see Keyser 1925).
 7. Ironically, the National Defense Education Act would be used 18 years later in an attempt to ban the teaching of evolution in public schools. In 1976, Arizona Congressman John Conlan sponsored an amendment to the National Defense Education Act that would "prohibit federal funding of any curriculum project with evolutionary content or implications." The amendment passed by a vote of 222-174 (Taylor 1992). Although the Senate narrowly rejected the amendment, funding for some projects (including many at the National Science Foundation) was delayed pending a review of their "evolutionary content."
 8. The antievolution law in Arkansas was passed as an initiated act, and was the only such law ever approved by a popular vote.
 9. One alumnus of the BSCS textbook project was Lane Lester, a Purdue-trained geneticist. Lester was later convinced by Duane Gish (of the Institute for Creation Research) to denounce evolution, after which Lester became Director of Liberty Baptist College's Center for Creation Studies (Numbers 1992).
 10. Henry Morris' influential *Scientific Creationism* (1974) also used this "two-model" approach to repackage creationism as science. *Scientific Creationism*, a handbook for biology teachers, argued that "the basic scientific creation model" could be "taught without reference to the book of Genesis or to other religious literature or to religious doctrines." *Scientific Creationism* came in two similar editions, one for public schools (containing no references to the Bible), and one for Christian schools (which included a chapter entitled "Creation According to the Scriptures").
 11. These disclaimers are ostensibly to promote "critical thinking." However, on 8 August 1997 the U.S. District Court for the Eastern District of Louisiana rejected a policy requiring teachers to read aloud such a disclaimer when they taught about evolution (*Freiler v. Tangipahoa Board of Education*, No. 94-3 577 ED. La. Aug. 8, 1997; the disclaimer said that the only "concept" from which students were not to be "dissuaded" was the biblical story of creation). The court's decision also noted that proposals for "intelligent design" are equivalent to proposals for teaching "creation science." For more about the legal history of the evolution/creationism controversy, see Moore (2000).
 12. Even the National Science Foundation has modified its policies to accommodate the public's concerns about evolution. As of 1989 (and possibly since then), at least one division of the Foundation eliminated the word evolution from the titles of its funded projects (J. McInerney, personal communication; also see Moore 2000).

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Clarence Darrow, right, and Judge John T. Raulston shake hands after the judge lifted a contempt citation against Darrow. Looking on, from left, are attorneys Wallace Haggard (with cigar), Dudley Field Malone, Tom Stewart, William Jennings Bryan. The man between Bryan and the judge is not identified.

The Tale of Two Trials: A Study in Contrasts

By Norman L. Geisler

Norman L. Geisler is president of Southern Evangelical Seminary in Charlotte, N.C., and founding president of the Evangelical Philosophical Society. He has served as a faculty member or visiting lecturer at numerous colleges and seminaries, and has lectured and traveled in fifty states and twenty-five countries on six continents. Of his many and varied publications, he has three books dealing with the creation/evolution controversy, one of which — The Creator in the Courtroom — “Scopes II” — is an account of Geisler’s participation in the 1981 Arkansas Creation/Evolution Trial. The essay which follows was first presented as a paper at a symposium on “The Scopes Trial: A Challenge for American Education” on July 17, 1998, in the Rhea County Courthouse, where the Scopes Trial took place.

Contrary to the belief of my children, I was not present at the 1925 Scopes Trial. However, I was an expert witness at the so-called Scopes II Trial in Little Rock, Arkansas, in 1981. The two trials are a study in contrasts. In this presentation I’ll do three things: First of all, I’ll make some observations on the issue at Scopes I; second, some observations on the issue at Scopes II; and third, draw some scientific, educational and legal implications of the court decisions on the two trials.

The issue at Scopes I

The Tennessee law of 1925 that occasioned Scopes I read as follows: “Be it enacted by the General Assembly of the State of Tennessee, that it shall be unlawful for any teacher in any of the universities, normals and other public schools of the state which are supported in whole or in part by the public school funds of this state to teach any theory that denies the story of divine creation of man as taught in the Bible and to teach instead that man was descended from a lower order of animals.”

The Scopes court transcript makes it evident that the issue was whether or not the schools should teach only one theory of origin, namely creation, or whether they should allow the teaching of evolution as well. The defendant, John Scopes, who was initially found guilty for teaching evolution in violation of the law, summed up the issue well: “Education you know, means broadening, advancing. If you limit a teacher to only side of anything, the whole country will eventually have only one thought, be one individual. I believe in teaching every aspect of every problem or theory.”¹

Clarence Darrow, the ACLU attorney who defended John Scopes, used the word “bigotry” of creationists numerous times at the Scopes trial. In fact he used it six times in only two pages of the trial and four times on one page. One citation will suffice. He said, “We have the purpose of preventing bigots and ignoramuses from controlling the education of the United States, and you know it, and that is all.”²

In another memorable line, Darrow’s associate, Dudley Field Malone, concluded, “For God’s sake, let the children have their minds kept open—close no doors to their knowledge; shut no door from them. Make the distinction between theology and science. Let them have both. Let them both be taught. Let them both live.”³

Of course Darrow did not say creation could be taught as an empirical science but then again neither can evolution. Both are more like a forensic science. In brief, the basic issue at Scopes I was whether or not both creation and evolution should be taught in public schools. At the time only creation was permitted and evolutionists sought the protection of the law to teach evolution as well, going so far as to repeatedly call creationists bigots for allowing only creation to be taught.

Fifty-six years later, at Scopes II, would be a study in contrasts.

The issue at Scopes II

My interest in responding to the request to testify at Scopes II was based on the fact that it appeared to be a reverse Scopes I. Between 1925 and 1981, the *de facto* situation was reversed. Now evolution, not creation, dominated the public classrooms.

Act 590, passed by the Arkansas legislature and signed by Gov. Frank White on March 19, 1981, read in part as follows: "An act to require balanced treatment of creation science and evolution in public schools, to protect academic freedom by providing student choice, to ensure freedom of religious exercise, to guard freedom of belief and speech and to prevent establishment of religion, to prohibit religious instruction concerning origins, to bar discrimination on the basis of creationist or evolutionist belief."⁴

It went on to say that creation science meant the scientific evidence for creation and inferences from those scientific evidences. The Louisiana law that moved on to the Supreme Court also defined creation science as "the scientific evidences for creation and inferences from those scientific evidences."⁵ This will serve as the working definition for our discussion.

Scopes II 1982 federal court decision

Granting what the ACLU had argued through its legal representatives at Scopes I, I fully expected them to be in Arkansas arguing the same point, that both theories of origins should be taught. I was half right. They were there.

This time, however, they insisted, and Judge William Overton, son of an Arkansas evolutionary biology teacher, ruled that only evolution should be taught in public school science classrooms. For on January 5, 1982, the McClain Court ruled not only that it was not constitutional to mandate balanced treatment but it was a violation of the First Amendment to teach any view that implies a supernatural creator. In the judge's own words, "Indeed, creation of the world out of nothing is the ultimate religious statement because God is the only actor."⁶

He added concerning the creationist belief about the origin of specific kinds that "such a concept is not science because it depends upon a supernatural intervention which is not guided by natural law. It is not explanatory by reference to natural law, is not testable and is not falsifiable."⁷

Although the Supreme Court 1987 decision in *Edwards* avoided some of the pitfalls of the McClain Court, such as attempting to declare creation unscientific, nevertheless, it did succeed in establishing a *de facto* monopoly of evolution in the public schools. For it declared that "the act impermissibly endorses religion by advancing the religious belief that a supernatural being created humankind."⁸ Creation was repeatedly called a "religious" tenet, pages, 4, 5, 6, of the Supreme Court ruling.

Unlike most creationists who read hope in *Edwards* for teaching creation on the grounds that it allows, one, evidence can be presented against evolution and, two, alternative theories of origins can be presented, it appears to me after careful reading and re-reading of the Supreme Court decision that this is a misunderstanding of the decision, which excludes any and all views that refer to or imply a supernatural creator of the universe and/or living things.

It is unmistakably clear in the Scopes II decision that only naturalistic theories could be taught and that a reference to a creator of the world is inherently religious. Since the Supreme Court cited this last quotation in its own decision, it seems evident that all the Supreme Court allows is alternative theories of origins that are naturalistic. That is, any view that affirms or implies a supernatural creator is religious and is considered unconstitutional.

This is confirmed by Judge Scalia's dissenting opinion where he wisely noted, by the same logic, one could not counter any false teaching in a history class that taught that the bones

of Jesus had been found. Instead, this is precisely what state attorney Stewart predicted at the Scopes I trial when he said these prophetic words, "And the next thing you know there will be a legal battle staged within the corners of this state, that challenges even permitting anyone to believe that Jesus Christ was divinely born—that Jesus Christ was born of a virgin—challenge that, and the next step will be a battle staged denying the right to teach there was a resurrection, until finally that precious book and its glorious teachings upon which this civilization has been built will be taken from us."⁹

Summary

The tale of two trials is a study in contrasts. Scopes I was precipitated by the fact that only creation was being taught in the public schools of the State of Tennessee. In response, evolutionists argued that it was bigotry to teach only one theory of origins. They insisted that both should be taught. Scopes II, by contrast, was occasioned by the *de facto* condition that virtually only evolution was being taught in the public schools of Arkansas. But tragically, the consequences of both which were appealed in the Federal Court decision of 1982, and the Supreme Court decision of 1987 ruled in effect that only naturalistic theories can be taught. Any reference to or implication of a supernatural creator as a possible explanation of origins is unconstitutional.

In short, the highest courts ruled that it is constitutional to teach only one view of origins, a naturalistic one. In the light of Clarence Darrow's plea to avoid bigotry and teach both, one can only ask this question: If it was bigotry to teach only one theory of origins when only creation was being taught, then is it not still bigotry to teach only one theory of origins when only evolution is being taught? Based on this, one wonders how to avoid the conclusion that bigotry has not changed since 1925, only the bigots have.

The question of bigotry aside, there is one very interesting historic footnote emerging from the trial that relates to racism. Hunter's textbook on essentials of biology, from which John Scopes allegedly taught, affirms social Darwinian racism. In a paragraph titled "The Races of Man," it speaks of "the highest type of all, the Caucasians, represented by the civilized white inhabitants of Europe and America."¹⁰ This in contrast with the creationists' belief from the Declaration of Independence which declares that all men are created equal and have equal inalienable rights. This stark contrast bristles with both social and legal implications.

The implications of the court decision

If creation or creator are disallowed, *de jure* or *de facto*, then some shocking scientific, educational or legal consequences follow.

Scientific implications

There are several significant scientific implications from these court decisions. The first implication is that, granted the court's decision, the very founders of most areas of modern science were not really scientific. After all, as defined by the *Edwards* Supreme Court case, these founders of modern science were creationists. This includes Kepler, Pascal, Boyle, Newton, Faraday, Agassiz, Maxwell, Pasteur and Kelvin. Sir Isaac Newton, for example, said, "It is not to be conceived that mere mechanical causes could give rise to so many regular motions. This most beautiful system of the sun, planets and comets could only proceed from the counsel and dominion of an intelligent and powerful Being."

The truth of the matter is that if the scientific study of origins is not science, then neither Sir Isaac Newton nor the great founders of modern science could teach in American public schools. I respectfully submit that this is patently absurd.

The second implication is that the archeology, anthropology, astrophysics and paleontology are not science, since they too are sciences about past, unobserved events. Belief to the contrary, this is based on the failure to distinguish two kinds of science: empirical science and origins science. Admittedly, creation science is not an empirical science, but then again, neither is macroevolution. For the basic criterion of empirical science is that one's theories can be measured against some regularly recurring pattern of events in the present. But since both creation and macroevolution occurred in the past and are not being repeated in the present, then neither is an empirical science.

However, there are scientific approaches to the past, as exemplified by paleontology, archeology and astrophysics, but these are not empirical sciences since the past events they study were not observed and are not being repeated in the present. Nevertheless, the scientific approach to them is like a forensic science. That is, even though an unobserved homicide was not seen and obviously can't be repeated, nevertheless, the forensic scientist can use the remaining evidence to reconstruct a plausible scenario of what is likely to have occurred. Likewise, origins science operates in the same way.

Fundamental to this approach are the reasonable scientific premises that every event has an adequate cause and that past events are similar to present ones. For example, if it takes an intelligent being to produce an arrowhead from flint in the present, then archeologists do not hesitate to postulate an intelligent cause for a similar arrowhead in the past. Likewise, when scientists look at the evidence that a single-cell organism has enough specified complexity in the genetic code that would fill the *Encyclopaedia Britannica*, then he can reasonably postulate that an intelligent cause produced the first living cell. And the refusal to allow creation science is like insisting that *Britannica* must have happened by something like an explosion in a printing shop. Again I suggest, this is evidently absurd.

Another scientific implication of the court's decision to disallow the teaching of creation is that it will retard the progress of science. To refuse alternative explanations based on scientific evidence, no matter whether they are a minority view, is to stultify the growth of scientific understanding. Indeed, all great scientific discoveries were minority opinions when they first appeared, including Copernicus' view that the earth moves around the sun, and Einstein's theory of relativity. So to reject the possibility of creationist explanations of origins is contrary to the very openness to which the scientific method is committed. Since either something caused the origin of the universe or nothing did, then rejecting creation is like insisting we should teach young minds that nothing caused something while we dare not share with them the possibility that something caused something. Here the courts have adopted a *credo ad absurdum* in the face of which all rational minds recoil.

Further, there are some serious objections to disallowing minority views. Remember Galileo? Admittedly, origins science is a minority view, but without minority views, there would be no possibility of scientific progress, since all new ideas were minority views when they first appeared. By disallowing that creationist theories can be presented, scientists in the name of science may be unwittingly hindering the progress of science. Of course, we agree that creationist views should be permitted only as origins science, not as operation science.

Metaphysical dogmatism

In order to avoid this conclusion, most evolutionists have insisted that science is limited to a method that seeks for only non-intelligent natural causes. This is not only false, but it confuses different kinds of causes; it is prejudicial and it leads to faulty conclusions.

First of all, neither archeology nor the SETI program could be considered science by sci-

entists on that same ground, because they both look for intelligent causes. In fact, archeologists posit an intelligent cause for their artifacts and the SETI scientists are listening for a message from an extraterrestrial intelligence. Neither of these are natural, non-intelligent causes.

Second, rejecting creationist science confuses empirical and forensics types of science. The former has only natural causes but the later may not. Empirical sciences deal with regularities in the present, but by their very nature, all regular events are natural events. However, origins science deals with past singularities which may or may not have a natural explanation. For example, a dead body found in a forest may have been hit by lightning, a natural cause, or may have been killed by a murderer, an intelligent cause. Likewise, when the scientific evidence for a past event points to a supernatural cause, then there is no reason not to posit such a cause.

Even agnostic astrophysicist Robert Jastrow acknowledged, "Astronomers now find they have painted themselves into a corner because they have proven by their own method that the world began abruptly in an act of creation to which you could trace the seeds of every star, every planet, every living thing in this cosmos and on earth, and they have found that all this happened as a product of forces they cannot hope to discover," which he calls elsewhere "supernatural forces," the very thing the Supreme Court disallowed.¹²

Third, it is prejudicial to limit all scientific causes to natural ones, it is a bias in favor of naturalism, either of metaphysical naturalism or of methodological naturalism. Not all effects in the world need to be caused by natural causes. Indeed, the very first event, which scientist call the "Big Bang," could not have been caused by the natural world, since there is evidence that it involved bringing the whole natural world into existence. As British physicist Edmund Whittaker concluded, "It is simpler to postulate creation ex nihilo, divine will constituting nature from nothingness."¹³

Faulty conclusions

Assuming that all events in the physical world must have natural causes clearly prejudices the conclusion before looking at the evidence and then drawing the appropriate conclusion based on the facts. For example, if science by definition must always posit a natural cause for all events in the physical world, then they must seek some unknown law of erosion to explain the presidential faces on Mt. Rushmore. Or they must assume a message in the clouds that reads "Drink Coke" resulted from an unusual wind current.

Educational implications

In addition to the scientific implications of the court decisions on the Scopes Trials, there are some significant educational consequences.

Academic uniformity

Evolution is definitely the dominant view in the academic community. However, academia, of all domains, should be open to divergent opinions. John Scopes was right when he said, and I repeat, "Education, you know, means broadening, advancing. And if you limit a teacher to only one side of anything, the whole country will eventually have only one thought, be one individual. I believe in teaching every aspect of every problem or theory."¹⁴ This applies whether the minority view is evolution or creation.

Disinterest in truth

Since from the earliest known times, thinking people have been interested in truth, science even in its primitive forms, sought to know the truth about the natural world. But logically

there are only two possible views of origins; either they have a natural cause or a supernatural cause. Either they occurred by intelligent intervention into nature by supernatural cause or by purely natural laws apart from any intelligent intervention.

However, with the exception of a few vocal zealots for evolution, as the late Isaac Asimov, most serious-minded scientists recognize that it's at least possible that evolution may be false and creation may be true. If this is so, then a court decision which forbids teaching creation will have the consequence of legislating the impossibility of teaching what admittedly may be true. It is difficult to believe that fair-minded scientists are willing to say in effect that creation may be true, but we will not allow it to be taught anyway. Certainly we do not want to legislate the possibility of truth out of the scientific classroom.

This being the case, then, legislating against the teaching of creation is legislating against our young people being exposed to what could possibly be true. This entrenched metaphysical and methodological naturalism in our public institutions has ruled out in advance the very possibility of finding the truth, should it be found in an intelligent cause of the world and life. Have we come to the place in American education where we are no longer interested in truth? Must we insist on a method of research that eliminates knowing what possibly may be true? Are we no longer interested in truth wherever it may be found?

Legal implications

Finally, some interesting legal implications emerged in the wake of the court ruling on the Scopes Trial. First, there is the matter of the First Amendment, freedom of speech. For all practical purposes, there is no freedom of speech for creationists in public schools. The court decisions and the chill effect from them has hampered efforts to get a fair hearing for creation. Evolutionists have freedom of speech both *de facto* and *de jure*; for all practical purposes, creationists have neither.

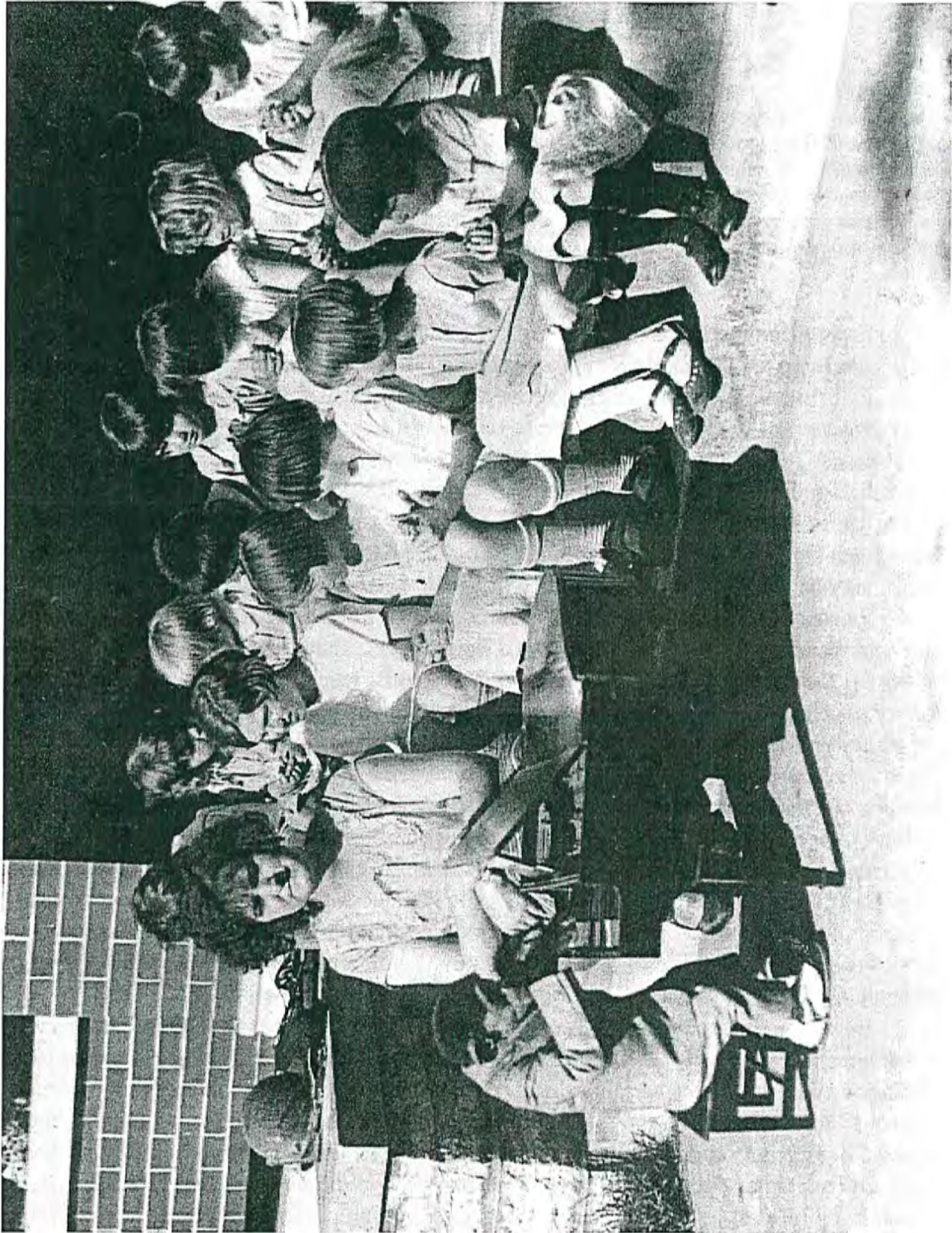
The Supreme Court of the United States has declared, in effect, that the Declaration of Independence is unconstitutional. If the courts are correct, that it's unconstitutional to demand freedom to teach creation alongside of evolution, then the basic teachings of the Declaration of Independence are unconstitutional for it teaches that "all men are created equal" by a creator. But this is precisely what both *McClain* and *Edwards* decisions declared to be inherently religious. Thus, by logical implication, the courts have ruled that the founding legal document of our country, our national birth certificate, is unconstitutional. I have no doubt what Thomas Jefferson would do were he to return to America to discover that he was being forced to pay taxes to support public schools to teach his children that the Declaration of Independence was unconstitutional. Since at the basis of the first revolution was the belief that "taxation without representation is tyranny," he would start a second American revolution.

Now my proposal is modest by comparison. Let us open our institutions to what Charles Darwin himself said in the introduction to his famous work *The Origin of Species*, where he wrote, "For I am well aware that scarcely a single point is discussed in this volume on which facts cannot be adduced, often apparently leading to conclusions directly opposite to those at which I have arrived." He adds, "A fair result can be obtained only by fully stating and balancing the facts and arguments on both sides of each question."¹⁵

Notes

1. John Scopes; quoted in P. William Davis and Eldra Pearl Solomon, *The World of Biology* 2nd ed. (New York: McGraw-Hill Book Company, 1979), 610.

2. Clarence Darrow; quoted in Theodore C. Mercer, ed., *The World's Most Famous Court Trial Tennessee Evolution Case* (Cincinnati: National Book Company, 1925; reprint, Dayton, Tennessee, 1978), 299 (page citation is to the reprint edition).
3. Dudley Field Malone, quoted in Theodore C. Mercer, ed., *The World's Most Famous Court Trial*, 187.
4. Arkansas, Act 590, (March 19, 1981): quoted in Norman Geisler, *The Creator in the Courtroom* (Milford, MI: Moft Media, 1982), 4.
5. Louisiana Statute 517.286.3(3).
6. Judge William Overton, quoted in Geisler, *The Creator in the Courtroom*, 174.
7. Judge William Overton, *ibid.*, 176.
8. *Edwards* Supreme Court Decision, 19 June 1987.
9. A. T. Stewart, quoted in Mercer, *The World's Most Famous Court Trial*, 198.
10. George William Hunter, *A Civic Biology: Presented in Problems* (New York: American Book Company, 1914), 196.
11. Sir Isaac Newton, "General Scholium," in *Great Books of the Western World*, ed. Robert Maynard Hutchins, Vol. 34, *The Mathematical Principles of Natural Philosophy* (Chicago, IL: University of Chicago, 1952), 369-70.
12. Robert Jastrow, "A Scientist Caught Between Two Faiths: Interview with Robert Jastrow," *Christianity Today*, August 1982, 6.
13. Edmund Whittaker, quoted in Robert Jastrow, *God and the Astronomers* (New York: W.W. Norton, 1978), 111-112.
14. Scopes 610.
15. Charles Darwin, *The Origin of Species*, ed. J. W. Burrow (1859; reprint, London: Penguin Books, 1985), 66.



Joe Mendi, a monkey movie star, entertains a group of children during his visit to Dayton. The Scopes Trial attracted a number of simian guests, whose owners were attempting to prove a point about the theory of evolution. With Mendi is his handler, Miss Gertrude Baumen.

"You Can't Make A Monkey Out of Me" or Forgotten Voices from the Sticks

Music of the Scopes Monkey Trial

By Melvin R. Wilhoit

Melvin R. Wilhoit is Professor of Music at Bryan College, currently is Chairman of the Music Department and has performed widely as a trumpet soloist and a conductor of choral and instrumental groups. He has contributed articles to such publications as International Trumpet Guild Journal, The Hymn: A Journal of Congregational Song; Grove Dictionary of Music and Musicians, American Music, and American National Biography. In addition he has served as president of the Tennessee Association of Music Executives in Colleges and Universities. His essay below is an version of an audiovisual presentation he gave at a symposium entitled "'You Can't Make a Monkey Out of Me': Music and the Scopes Trial," held on July 18, 1997, in the Scopes Trial Courtroom of the Rhea County Courthouse.

It was on Friday the 13th of March in 1925 that the Tennessee legislature passed House Bill No. 185, known as the Butler Act, which stated in part "that it shall be unlawful for any teacher in any of the. . . public schools... to teach any theory that denies the story of the Divine Creation of man as taught in the Bible, and to teach instead that man descended from a lower order of animals."¹ A few days later, Governor Austin Peay signed the bill and it became law.²

Initially the new statute aroused little interest until Lucille Milner, an employee in the New York office of the American Civil Liberties Union, saw a newspaper story with headlines, "Tennessee Bans the Teaching of Evolution." Soon, the ACLU sent notices to all Tennessee papers offering to pay the costs for any teacher willing to challenge the law in court.³

On Monday Morning, May 4, the *Chattanooga Times* ran the ACLU invitation which did not go unnoticed by the citizens of Dayton, "a sun-baked, slumberous, rather agreeable little country town... forty miles from the nearest city, and a million miles away from anything urban, sophisticated, or exciting."⁴ Almost immediately city fathers realized there might be a goldmine of free publicity and lucrative tourist dollars for the town that could grab such a trial. Soon one John Scopes, a young science teacher and coach who often used his science classes to figure out football plays, was talked into being arrested for the criminal misdemeanor of teaching evolution—even though he couldn't recollect ever having discussed the subject in his classes!⁵

To insure Dayton of getting the trial, a special grand jury was convened to indict the willing Scopes. But events quickly spiraled beyond the wildest dreams of city fathers, overwhelming the community in a flood of events greater than it could have ever imagined. For soon some of the most famous personalities of the era were lining up either to help prosecute the case or to help defend John Scopes.

Assisting the prosecution was William Jennings Bryan—three-time Democratic candidate for the presidency, Secretary of State under Wilson, and undisputed spokesman for the common man.⁶ At sixty-five, Bryan was nearing the end of an illustrious political career that has been compared to that of Senator Edward Kennedy who, although never elected president, strongly influenced the programs and policies of the Democratic party. Bryan was a political progressive who supported the role of the federal government to protect the poor and working classes from the power of big business. To that end, he championed women's suffrage, direct election of senators, government insurance to protect bank deposits, an income tax on the wealthy, and countless other programs that have since become part of the fabric of American life. Religiously, Bryan was a conservative Presbyterian with a strong belief in the Bible and strong opposition to evolution.

Defending Scopes was Clarence Darrow—famed criminal lawyer, defender of free speech and the underdog, and foe of intrusive government.⁷ While Darrow was also a Demo-

crat and had supported Bryan's first bid for the presidency, he was skeptical of the ability of the people to make informed judgments. Rather than seeing government as a protector of rights, he viewed it as oppressive of individual rights—as in the case of national Prohibition. Consequently he often defended the rights of many persons—Communists, conscientious objectors, union workers, African-Americans who were not commonly held in high esteem by a majority of Americans. Religiously, Darrow was an avowed agnostic who believed religion, particularly that of the popular Fundamentalist variety, fostered ignorance and narrow-mindedness.

On Friday, July 10, under a sweltering heat, the trial opened in the Rhea County Courthouse to an overflow crowd. A carnival atmosphere pervaded the town which had by then been inundated by all manner of creative entrepreneurs and publicity seekers. A large banner proclaiming "Read Your Bible" hung on the courthouse, while Joe Mendi, the trained chimp, posed with tourists for a price. Speeches on just about every conceivable subject were delivered on street corners where anyone would stop and listen. Orators included Levi Johnson Marshall, "Absolute Ruler of the Entire World, Without Military, Naval, or Other Physical Force," Wilmer Voliva of the flat-earth school of geology, and a traveling atheist who stood at a prominent intersection haranguing everyone within earshot. Although formal arguments would not begin for several days, the trial was already an event of epic proportions—the kind that gets immortalized in story and song.⁸

Amazingly, on that first day of the trial before a jury was even seated, one such song had already been written and was at that very moment being recorded for Columbia Records. It was appropriately called "The John T. Scopes Trial." Its creator was Carson J. Robison, the popular country-music singer-songwriter who could whistle two different tunes simultaneously. The song was recorded by his partner, the versatile tenor Vernon Dalhart, who had also recorded Robison's topical ballad "Wreck of Old '97" a year earlier, with that record eventually selling over a million copies. As it turned out, "The Scopes Trial" was also a hit, and Dalhart recorded the song for three other companies within the next six months.⁹ It began:

All the folks in Tennessee are as faithful as can be,
And they know the Bible teaches what is right;
They believe in God above and his great undying love,
And they know they are protected by his might.
Chorus: You may find a new belief, it will only bring you grief,
For a house that's built on sand is sure to fall;
And wherever you may turn there's a lesson you will learn
That the old religion's better after all.

Although Robison's song ostensibly focused on the issue of the Bible and how it was to be interpreted, it really symbolized a much greater conflict epitomized by the trial itself. For that conflict was nothing less than a tectonic upheaval caused by the collision of urban and rural values and interests.¹⁰

This conflict was clearly evident in the phrase "roaring twenties," for in the 1920's vast segments of the population were trading in their horses and buggies for faster, noisier motorcars that symbolized urban life. The nation was in fact experiencing great upheavals resulting from a momentous cultural shift that had been underway for several decades as the national equilibrium clearly tilted from the country to the city.

Perceptions about national identity were likewise changing. By 1925 the honest, rugged, freedom-loving yeoman who had tilled the earth in dignified simplicity was now viewed as an ignorant, backward hillbilly, and the once rolling hills and fertile valleys had become the sticks. More significantly, the balance of power in Congress was slowly shifting away from rural areas

toward the cities.

From a rural perspective, cities represented the seats of big business whose selfish interests had dragged the nation into The Great War and whose giant monopolies were slowly but surely squeezing the independent farmer or workingman out of business. In addition, cities provided open breeding grounds for the moral decay which seemed so evident in novels such as Theodore Dreiser's *Sister Carrie* and the music of jazz.¹¹ Morally and economically, the cities represented a grave threat to the traditional American way of life.

Conversely, many urbanites perceived country folk as ignorant of and opposed to progress—the watchword of the era. Because the best examples of applied scientific progress were generally located in the cities—with their dynamic, motorized, accelerated way of life—and because cities were the seats of the most prestigious institutions of learning, culture, politics, and even religion, city dwellers became more closely associated with the acceptance of new ideas and new developments. Naturally, it was felt, the culturally rude and educationally unenlightened souls from the country could not be expected to fathom the complexities of modern science—thus holding all the more tightly to their mythical explanations of complex issues such as human origins. Although many city folk were not long removed from their own rural roots, they were now quick to shed their former associations and became rather impatient, if not embarrassed, by those still holding to them.

Recording this epic struggle for the nation was a voracious news media that knew a good story when it saw one. Over one hundred reporters from newspapers, newsreels, and Chicago radio station WGM (which broadcast the trial nationally) descended on tiny Dayton to report on the “Monkey Trial.” Although some reporters sought to provide a certain amount of objectivity, two important factors worked in favor of a decidedly urban perspective. First, reporters generally represented institutions located in cities whose readership was more sympathetic to an urban viewpoint. Nunnally Johnson of the *Brooklyn Eagle* later recounted that, for reporters, the trial was “a lark on a monstrous scale” and “being admirably cultivated fellows... looked down on the local fundamentalists.”¹² Westbrook Pegler, who also reported on the trial, later confessed that although local townsfolk were an intelligent lot, “Nevertheless, the whole Blue Ridge country was ridiculed on religious grounds by an enormous clique of supercilious big town reporters....”¹³ And trial historian L. Sprague de Camp, writing of the reporters’ response to one of Bryan’s courtroom orations, observed, “Of course, the newspaper reporters may have depicted the speech as less effective than it was, because most of them were city men, hostile to the speaker.”¹⁴

Second, a decidedly urban perspective dominated reporting because the early days of the trial involved jury selection and standard legal proceedings—hardly exciting reading for the folks back home. This resulted in a heavy dosage of “jazz journalism” which often improvised and embellished a story to make it more readable. It reflected the advice of Joseph Pulitzer, father of the “new journalism,” who encouraged his reporters to hype what was “original, distinctive, dramatic, romantic, thrilling, unique, curious, quaint, humorous, odd, apt to be talked about.”¹⁵ Known as the Coney Island approach, this descriptor readily acknowledged the necessity of a little flim-flam in the crafting of a good story.

It also meant, in some cases, the sheer fabrication of accounts. When Mr. and Mrs. E. B. Arnold of Dayton, who housed several news reporters during the trial, inquired why one of their guests never attended court proceedings, he replied, “Oh, I don’t have to know what’s going on. I know what my paper wants me to write.”¹⁶ This practice of reporting events in absentia caught the majority of newsmen off guard when the trial unexpectedly reached its dramatic zenith on July 20. At that point there were only a handful of reporters present, most having taken the afternoon off. As defendant John Scopes recorded in his memoirs, immediately upon adjournment he

was grabbed by a reporter named Hutchinson and commandeered into service in the makeshift press hall. Defendant Scopes recorded the aftermath of the epic trial's most dramatic day:

The [reporters] still present planned to cover for some of their absent colleagues. Each made five carbons of his story and from those we reworked stories that could be wired to the missing men's papers. I tried to help by writing part of the day's events in longhand. It was then that I learned I wasn't cut out to be a journalist. . . . At last, when we had enough stories to cover everyone, they wired in their own stories so that they would enjoy a slight beat on the absent reporters and then they filed the others.¹⁷

Clearly the undisputed leader of this urban perspective during the trial was none other than H. L. Mencken, reporter for the *American Mercury* and the *Baltimore Evening Sun*, whose distaste for all things rural was legendary.¹⁸ Writing of William Jennings Bryan's popularity in Dayton, Mencken sneered:

He liked people who sweated freely, and were not debauched by the refinements of the toilet. Making his progress up and down the Main street of little Dayton, surrounded by gaping primates from the upland valleys. . . his coat laid aside, his bald head sprinkled with dust. . . he was obviously happy. He liked getting up early in the morning to the tune of cocks crowing on the dunghill. He liked heavy, greasy victuals of the farmhouse kitchen. He liked country lawyers, country pastors, all country people. He liked the country sounds and country smells.¹⁹

Although Mencken's acerbic pen was undoubtedly wielded with considerable journalistic hyperbole, his style set the tone for much of the reporting on the trial which viewed Bryan and his supporters as at best, ignorant hillbillies, and at worst, dangerous bigots threatening freedom of thought and speech.²⁰ Soon most general histories of the period also adopted similar, albeit more muted, perspectives.²¹ And in 1955, *Inherit the Wind*, a fictionalized but thinly disguised interpretation of the trial by Jerome Lawrence and Robert E. Lee was produced on Broadway and later was made into a Hollywood film and a TV movie—all subscribing to a highly anti-rural perspective. Perhaps Mencken summed up what became the establishment/urban perspective on the trial when he penned: "On one side was bigotry, ignorance, hatred, superstition, every sort of blackness that the human mind is capable of. On the other side was sense. And sense achieved a great victory."²²

In startling contrast to this popular consensus stands a fascinating but nearly forgotten account of the trial and its related events. And what makes this account interesting is that it derives from a small body of music that might be called "The Scopes Trial Songs." Although, at first glance, these songs may appear to be little more than ignorant and reactionary responses to a changing world, a closer inspection reveals them to be valuable topical ballads which provide an authentic and important alternative voice to the establishment/urban interpretation of events. Even more importantly they represent a popular response to the changes resulting from a shift in the national consensus. (Ultimately, this genre of music would become known as country or hillbilly music.)²³

A return to the chorus of Robison's "The John T. Scopes Trial" is especially instructive as it concludes: "And wherever you may turn there's a lesson you will learn, That the old religion's better after all." While it was true that the trial dealt with a subject possessing significant religious ramifications, the term "religion" in the song's last line should not be interpreted in a narrow sense relating only to matters of theology; for it was clearly a metaphor for an entire way of life and a system of cultural beliefs which was under siege.

While the Scopes Trial Songs suggest a number of issues, three seminal concerns seem central. They are (1) the nature and origin of the human race, (2) concerns over disintegration of the social order, and (3) the effects of laissez faire capitalism on the working man.

The first topic of origins or evolution is directly addressed in the second stanza of Robison's song:

Then to Dayton came a man with his new ideas so grand,
And he said, "We came from monkeys long ago.

Although the monkey figure of speech was an effective tool used by creationists to deride the seemingly ridiculous theories of their evolutionist opponents, part of its success stemmed from the fact that whether one was from the country or city, or held to concepts of evolution or creation, the complex process of evolution was most widely captured in the metaphorical "man came from monkeys."

The subject of man-came-from-monkeys was no laughing matter for the attorneys trying the case, however, for at the heart of the Butler Act which outlawed the teaching of evolution was this very issue of teaching that "man descended from a lower order of animals." So critical a point was this subject in the defense strategy of Scopes—in which Darrow was actually attempting to prove Scopes' guilt so as to challenge the constitutionality of the law in the higher courts—that two of Scopes' young students were privately coached into committing perjury by testifying that Scopes had indeed taught them evolutionary ideas upon a certain day—when in reality Scopes had not discussed the topic in class.²⁴

While songwriter Robison may have employed a light-hearted approach to capture attention and simplify the issues, he nevertheless implied that these ideas reflected no mere fleeting novelty whose acceptance or rejection was of little import. They were as the song noted "ideas so grand" with implications for reordering every part of life, whether religious, scientific, social, or economic.

In addition to "The John T. Scopes Trial," Robison also provided words and music for "Bryan's Last Fight." Both songs (words and music) were written during the summer of 1925 and were recorded under the pseudonym of Carlos B. McAfee. Robison, the son of a country fiddler, began his musical career in Kansas City but soon found his way to New York where he became a studio guitarist for Victor records in 1924. By 1930 Robison was performing on the NBC radio series "Hillbilly Heart Throbs," later forming his own western-style group, Carson Robison's Buckaroos. He displayed an unusual ability to adapt to the ever-changing styles of popular music, maintaining a presence in the music world up until his death in 1957. As Charles Wolfe observed, "Many of his approximately 300 compositions became country standards, and a surprising number of his early songs and ballads appear in folksong collections. His reputation is based primarily on his ability to meld Tin Pan Alley songwriting techniques with folk and country themes."²⁵

There is no evidence that Robison ever visited Dayton, but he was certainly aware of the trial and its related events. For by the summer of 1925 Robison was fast becoming the most successful writer of a genre called "event" songs.²⁶ In the tradition of British broadsides, event songs focused on sensational happenings of the day—usually of a disastrous nature. Common subjects were murders, robberies, mine explosions, and the ever-popular train wreck. Only a month before the trial, Robison's "Wreck of the 1256" had been released by Columbia under its "Old Familiar Tunes" series, eventually selling 178,029 copies.²⁷

Robison's successful approach to the genre was fortunately captured in a fascinating interview with Hugh Leamy for *Collier* magazine of 2 November 1929.

First, I read all the newspaper stories of, say a disaster. Then I get to work on the

old typewriter. There's a formula of course. You start by painting everything in gay colors—"the folks were all happy and gay" stuff. That's sure fire. Then you ring in the tragedy—make it as morbid and gruesome as you can. Then you wind up with a moral.²⁸

Although Robison became highly successful with such songs, he did not originate the genre, which apparently began two years earlier with another song about a rail disaster, "Wreck of the Southern Old Ninety-Seven." That was followed in early 1925 by one of the most popular of all such ballads, and the one that seemed to open the floodgates for similar efforts, "The Death of Floyd Collins." Collins was a young spelunker who became trapped and died in a cave near Mammoth Cave in Kentucky in February of 1925. What was unusual about this incident was the dramatic but unsuccessful rescue effort which was given on-the-spot radio coverage.

While most event songs dealt with disaster, a few non-tragic songs like Robison's "Scopes Trial" reflected issues of such widespread interest as to warrant musical attention. And Robison certainly gave careful attention to all aspects of his craft: "The folks for whom we write and sing are finicky. They know the formula they like and they want no changes or improvements. They pay more attention to the story than to the melody. You've got to stress the moral and you must have a singer who can put over every word clearly."²⁹

For just such a singer, Robison turned to the multi-talented Vernon Dalhart, born Marion T. Slaughter on April 6, 1883, in Jefferson, Texas. Originally interested in serious music, Dalhart studied voice in New York and began recording light opera and Tin Pan Alley songs as early as 1916. He was even signed by Thomas Edison as a recording artist for the Edison Diamond Disc. Although he met with initial success, by 1924 his career had stalled, and he turned to a "down home" song, "Wreck of the Old Southern Ninety-Seven," which had been released with little success a year earlier. It was backed with "The Prisoner's Song" which unexpectedly became a huge success and became possibly the first million-selling country recording.³⁰

With such recordings Dalhart quickly became a star of the emerging hillbilly recording market as well as the undisputed leader of event and disaster songs. During the year 1925—which turned out to be the peak of event songs—Dalhart recorded a string of successful titles, including the most successful version of "The Death of Floyd Collins" (which eventually sold 306,044 records for Columbia alone), "Wreck of the 1256," "Shenandoah" (about an Ohio airship disaster), "Sinking of the Submarine S-5," and "Santa Barbara Earthquake."³¹

This last song was backed by Robison's event song "The John T. Scopes Trial." Recorded on the first day of the trial, albeit in distant New York, the record was issued a month later on August 10 as No. 15037 in Columbia's 15000 series. While the average initial pressing of this series was 4150 records, the Scopes and Santa Barbara recording eventually racked up sales of 79,648.³² Yet sales figures from Columbia alone provide only part of the picture, for Dalhart often recorded the same song for multiple companies (often employing pseudonyms such as Al Craver, Bob White, Jeff Calhoun, and Mack Allen).³³ In addition to his Columbia release, Dalhart also recorded the "Scopes Trial" for Cameo (in August; release No. 792), Gennett/Silvertone (on September 14; release No. 3134), and Edison (No. 51609).³⁴ Additionally, Dalhart recorded "Bryan's Last Fight" (about the death of Bryan soon after the trial) for the same companies minus Edison. On the Cameo and Gennett/Silvertone releases, "Scopes Trial" and "Bryan's Last Fight" backed each other.³⁵

Surprisingly, for a first-time listener to Dalhart's recordings, one is struck by the conspicuously non-countrified approach to his singing. Reflecting his training and earlier recording experience, Dalhart simply sang in the more polished and lyrical style of a music-hall performer of the Tin Pan Alley repertoire. Yet what may initially appear a stylistic anomaly for country

music songs about rural experiences can best be understood by realizing that event songs were not considered country or hillbilly music at that time. In retrospect, event songs proved to be an important part of an emerging country music recording industry,³⁶ but such songs were perceived during their day as "Old Familiar Tunes," and Dalhart's more polished style was simply consistent with that approach.

Although Robison's interview revealing his formulaic approach to event songs may initially suggest a degree of cynicism towards his subject matter, the writer for *Collier* concluded:

Now you must not get the impression that this man in his New York office has his tongue in his musical cheek as he grinds out ballads for the simple folk. He is obviously sincere. He realizes that his work is lucrative and that it is not for the sophisticates. But he doesn't turn up his nose at his humble audiences.³⁷

Although Robison's feelings in the matter of the Scopes trial are unclear, he must have been keenly aware of or even sympathetic with the sentiments and beliefs of those holding to the rural perspective, for his songs struck home, apparently articulating the beliefs of their purchasers. "If," as Bill Malone has observed, "Robison's songwriting motives are less than clear, those of some of his balladeer contemporaries seem much more certain."³⁸

Robison's "The John T. Scopes Trial" was also recorded by a blind minstrel from Richmond, Ky., named Charles O. Oaks.³⁹ Born around 1870, Oaks wrote numerous topical ballads including two which were included in the *Journal of American Folklore* (1909).⁴⁰ He attended the Virginia School for the Blind where, in 1921, he met Lester McFarland and Robert Gardner with whom he later sang and recorded. At the same time that Oaks recorded Robison's account of the trial, he recorded his own song, "The Death of William Jennings Bryan" for Vocalion on August 7.⁴¹ Oaks undoubtedly had more first-hand experience with the trial than did Robison, for he spent much of his time performing in the Knoxville area, only ninety miles from Dayton, and may have even visited the town during the trial. Again Wolfe observes,

He was one of the few pre-commercial musicians to make the transition into the new mass media world of phonograph records, but his success was short lived. He apparently never got to broadcast on radio, and his rather archaic performing style was soon outmoded on records by newer and slicker singing styles. He ended his career singing with his wife on Knoxville street corners for nickels and dimes.⁴²

Although Oaks' own composition briefly touched on the subject of evolution, he was considerably more pointed about a weakening of basic social structures and certain economic injustices which clearly separated rural and urban interests. His second stanza awkwardly narrates:

He fought the evolutionists and infidels and fools,
Who are trying to ruin the minds of the children in our schools;
By teaching we came from monkeys, and other things absurd,
Denying the works of our Savior and God's own holy word.

While Oaks' linkage of the teaching of evolution with the ruining of a child's mind or character may at first appear an expression of either poetic hyperbole or borderline paranoia, a closer inspection revealed legitimate reasons for such concern by those opposing evolution. For in addition to Darrow's avowed agnosticism (which Oaks may have been alluding to in the line about "evolutionists and infidels") Darrow had developed quite a reputation for his defense of individuals seen to be endangering the social structure. Only a year before the Scopes Trial, Darrow had successfully argued against the death penalty for his two clients, Babe Leopold and Dickie Loeb.

Both had pled guilty to kidnapping and a gruesome pre-meditated murder and were

expected to get the death penalty. But Darrow argued that Leopold had come under the influence of Nietzsche's writings in college, particularly his *Beyond Good and Evil*, and he eloquently addressed the presiding judge:

It is not how [Nietzsche] would affect you. It is not how he would affect me. The question is how did he affect the impressionable, visionary, dreamy mind of a boy. If this boy is to blame for this, where did he get it? The university would be more to blame than he is. The scholars of the world would be more to blame than he is. The publishers are more to blame than he is. Your Honor, it is hardly fair to hang a nineteen-year-old boy for the philosophy that was taught him at the university.⁴³

Since Darrow's other client, Loeb, had apparently not been under the influence of such pernicious ideas, Darrow took a different tack in his defense, arguing that

this terrible crime was inherent in his organism, and came from some ancestor.... I do not know what remote ancestor may have sent down the seed that corrupted him, and I do not know through how many ancestors it may have passed until it reached Dickie Loeb. All I know is that it is true, and there is not a biologist in the world who will not say I am right.⁴⁴

While such ideas at first seemed outlandish to many rural folks, they soon appeared to be the logical examples of the "things absurd" that resulted from the teaching that "we came from monkeys." Certainly, it was felt, that if people were taught in the schools that they were simply a higher form of animal life, then animal behavior would naturally result. And in the case of Leopold and Loeb, Darrow himself seemed to be saying as much—at least when it suited him.⁴⁵

Oaks' third stanza addresses perhaps the most direct point of friction between urban and rural citizens. And that was an economic one.

He was a natural born'd orator, his voice was rich and grand,
A writer and a statesman too, the greatest in the land;
Three times he ran for President, but *capitalists* wouldn't let him win, (emphasis mine)
Because he was a friend to the poor and to the working men.

It was this final couplet that bore straight to the heart of Bryan's rural support as a powerful Populist voice. For Populism reflected the widespread dissatisfaction of rural folks with the federal government's monetary policies and friendliness towards big business. In addition, it seemed as if eastern businessmen controlled business cycles for their own financial ends. And it certainly seemed as if big business controlled many politicians in Congress.

A classic example of such control was the Panic of 1893. By May of that year many railroads had failed, trusts had collapsed, and over 500 banks in the South and West had closed, resulting in widespread farm foreclosures. Eastern businessmen blamed the Sherman Silver Purchase Act and forced President Grover Cleveland to call a special session of Congress to repeal the law. Although earnest appeals were made on both sides of the issue, all were forgotten after the representative from Nebraska, William Jennings Bryan, delivered an eloquent oration which warned:

On the one side stand the corporate interests of the United States, the moneyed interests, aggregated wealth and capital. . . . On the other side stand an unnumbered throng. Work-worn and dust-begrimed, they make their mute appeal, and too often find their cry for help beat in vain against the outer walls, while others, less deserving, gain ready access to legislative halls.⁴⁶

Three years later, Bryan headed the Democratic ticket for president, running on a platform seeking to restrain the power of big business and to broaden citizen participation in gov-

ernment. Many urban easterners considered Bryan and his supporters dangerous radicals who had to be stopped, and Republicans worked hard to raise an unprecedented campaign fund of three-and-one-half million dollars from banks, corporations and industrialists. Yet even with big businesses' clout, McKinley won by only 600,000 votes—many of which were hotly contested. Little wonder then that in the eyes of the common man—such as Charles Oaks—Bryan had been robbed of the presidency by the “urban capitalists.”

Another blind songwriter to contribute to the Scopes Trial repertoire was the Reverend Andrew Jenkins. Born in Jenkinsburg, Georgia, in 1885, he spent most of his life near Atlanta where he composed some 800 sacred and secular songs. His most successful were “Billy the Kid” and the classic “The Death of Floyd Collins.” Jenkins was a deeply religious man who saw the hand of God in every aspect of life, often using both his sacred and secular songs as vehicles for his beliefs. Although his “Evolution—Bryan’s Last Great Fight” was never published and apparently went unrecorded, it faithfully recorded the deepest beliefs of an important community of people. And in its poetic personification of evolution and the Bible in an epic battle, some are reminded of a medieval morality play.⁴⁷

There was a case not long ago in sunny Tennessee,
The Bible then on trial there must vindicated be.
The evolution was its foe, it could not understand
How in those pages white as snow we find the fate of man:
Oh, who will go and end this fight, oh, who will be the man?
To face the learned and mighty foe, and for the Bible stand?

To no one’s surprise, the second stanza narrates how Bryan “went to end the fight,” taking up a cause that seemingly involved “the fate of man.” Although the song has no refrain in the technical sense, its second stanza also concludes with “To face the learned and mighty foe,” an obvious reference to those supposedly enlightened folks from the cities.

One of the least known contributors to Scopes songs was Charles Mabell who recorded a few numbers for Okeh Records in St. Louis in 1925.⁴⁸ While most were sentimental songs about mother and home,⁴⁹ for the last of Mabell’s three sessions, he recorded a “Scopes Trial” which he probably wrote.

Down in Dayton Tennessee a famous trial was held.
John Scopes taught evolution and a prisoner was held;
The papers told the story and it traveled far and wide.
‘Till at last the whole creation knowed John Scopes was to be tried.
Bill Bryan wired the sheriff, “tell the folks I’ll soon be there;
If Darrow aims to fight this case, it must be fair and square.”
All the leaders of religion convoked from far and near,
Said they, “We know Bill Bryan, boys, and need not have a fear.”⁵⁰

In many ways Mabell’s account was more a creative figment of his fertile imagination than an accurate account of events, for in many instances he was in factual error. For example, Scopes was never jailed as the first stanza suggests; Bryan did not defend the practice of opening daily trial sessions with prayer against Darrow’s protestations as the second stanza states; and the quotations attributed to various persons result from poetic license. With its poetic roughness, its strong criticisms of evolutionists and its epic flavor, the song betrays a more homespun quality than most of the more commercially polished songs on the topic.

By far the best-known personality to write or record Scopes songs was Uncle Dave Macon (1870-1952), one of the best-loved entertainers in country music. He described himself simply as a “banjoist and songster, liking religion and meetings, farming, and thanking God for

all His bountiful gifts.⁵¹ In 1924 Macon began recording songs like "Keep My Skillet Good and Greasy" and "You Can't Do Wrong and Get By." Throughout his career he recorded over 175 songs which became popular in the South and Midwest.

In April of 1926, less than a year after the Scopes trial, Macon recorded his own song, "The Bible's True," for Vocalion.⁵² Even though it never mentions the Dayton trial, it clearly reflects the issues involved in its first stanza and chorus:

Evolution teaches man came from a monkey.
I don't believe no such a thing in the days of a week of Sundays.
Chorus: For the Bible's true, yes I believe it,
I've seen enough and I can prove it,
What you say, what you say, it's bound to be that way.

After a couple of additional stanzas stating that God's creative work included no "monkey business," he strongly alludes to the concept of a creator and a planned creation (as opposed to the evolutionary concept of chance).

God made the world and then he made man,
Woman for his helpmate, beat that if you can.

Macon was no doubt aware that the ramifications of accepting evolutionary theory went well beyond questions of origins. For many political and business leaders had already been applying the concept of "survival of the fittest" to social groups or even nation states. In what had become known as Social Darwinism, bigger and stronger companies or nations swallowed up little and weaker ones as simply the natural course of an age-old and inevitable process. Thus, rural folks began to believe that as little fish in a Darwinian pond, they might soon become an endangered species if evolutionists had their way. Already, it seemed, the Social Darwinists were busy creating a brave new world order which apparently had little room for rural folks.⁵³

When what would become the Grand Ole Opry began broadcasting in Nashville a few months after the trial, Macon was one of its first stars. In 1931 he headed the Opry's first touring company, and in 1939 he starred with Roy Acuff in the Hollywood film *Grand Ole Opry*. He continued with the Opry until a few months before his death, becoming one of the "most cherished links with its folk heritage" and a symbol of "the spirit of old-time country music."⁵⁴ Clearly Macon (who was in reality the dignified country gentleman he portrayed) and his songs captured the essence and values of the rural culture which his life and work epitomized.

There are also a number of anonymous Scopes songs such as "There Ain't No Bugs on Me," "I'm No Kin to the Monkey," and "You Can't Make a Monkey Out of Me." This last title was recorded by at least three different groups beginning in August of 1927. The Eva Quartette with W. J. Smith made a recording released on at least six different labels;⁵⁵ in December the Ashford Quartet recorded it for Brunswick; and in October the following year, the Gentry Family Quartet sang it for Victor.⁵⁶ Although it espoused many of the same serious concerns as other Scopes songs, it seemed to do so with a much lighter touch.

Many theories are spent on the origin of man,
Some can trace our name to the family tree;
But for me, I'm content with the blessed Bible plan.
And you can't make a monkey out of me.
Chorus: You can't make a monkey out of me, oh no,
You can't make a monkey of out me, no, no;
I am human through and through, all my aunts and uncles too
And you can't make a monkey out of me.

Some believe that the earth started from a little spark,
But they can't tell whence came the spark, you see:
And you can't make a monkey out of me.

Of particular interest in both stanzas is the strong implication that evolution was as yet an unproven theory. Bryan was also quick to point out the tentative nature of many of evolution's suppositions in his closing speech to the jury in which he declared:

If the results of evolution were unimportant, one might require less proof in support of the hypothesis, but before accepting a new philosophy of life, built upon a materialistic foundation, we have reason to demand something more than guesses; "we may well suppose" is not a sufficient substitute for "Thus saith the Lord."⁵⁷

Now lest one think Bryan was blindly criticizing sound scientific reasoning and teaching, a rather astounding passage from George Hunter's *Civic Biology*—the textbook introduced into evidence from which Scopes purportedly taught evolution—proclaims the following "scientific truths."

The Races of Man: At the present time there exist upon the earth five races or varieties of man: the Ethiopian or negro type. . . the Malay or brown race. . . the American Indian; the Mongolian or yellow race, and finally, the highest type of all, the Caucasians, represented by the civilized white inhabitants of Europe and America.⁵⁸

In 1925, such racist ideas were considered undisputed scientific fact, and to oppose science as framed by its degreed, revered and urban practitioners was certain to draw its wrath and scorn—especially if you happened to be from the sticks. Although country folks didn't always respond to scientific arguments with scientific terminology, they often possessed valuable intuitive gifts which provided a broader perspective on some matters.

In his book, *Social Darwinism in American Thought*, historian Richard Hofstadter tells of Bryan reading Darwin's *Descent of Man* and responding that such teachings would "weaken the cause of democracy and strengthen class pride and the power of wealth." Then Hofstadter comments, "Here as in other matters, Bryan had sound intuitions that his intellect had not the powers to discipline."⁵⁹ The same might well be said for the Scopes Trial songwriters and the people they spoke for—people who just might have exhibited far more sense than they've been given credit for.

Topical songs and popular ballads have often provided valuable commentary upon other politically or socially incorrect causes such as abolition, the labor movement, or civil rights. Therefore, it's also very possible that the Scopes Trial songs may provide a valuable window on developing a fuller perspective on a seminal event in American history whose story has rarely been told from other than the establishment/urban perspective. And it's also possible that these songs provide a valuable alternative and authentic voice for a group of people being slowly marginalized in terms of power and influence.⁶⁰

It is certainly difficult to estimate from the limited sales figures of a few companies how popular and widespread these songs really were.⁶¹ While local and clear-channel radio stations beamed these songs around the countryside, retail giants like Sears-Roebuck also advertised them in their national catalogues (released on the Silvertone label). Yet, as Bill Malone observes of early country music in general, "We simply do not know who the audience was, or why it was attracted to the music. To many people hillbilly music was just one more example. . . of the South's retarded and degenerate culture. On the other hand, many people no doubt responded positively to the South as a bastion of traditional values and orthodox religion in a nation given

over to rapid and bewildering change."⁶²

Although the participants of the famous Monkey Trial are long dead, the basic issues surrounding the trial are very much alive as evidenced in numerous highly publicized legislative battles, court cases, textbook controversies and PBS documentaries related to the subject of evolution.⁶³

Yet less well-known, perhaps, are a few recent echoes of the 1920's Scopes songs. The most popular has been a release by the Contemporary Christian group Geoff Moore and the Distance with its music video *Life Together* featuring the song "Evolution Redefined."⁶⁴ The video was selected as *Billboard Magazine's* CCM Music Video Clip for 1993 and is an impressive testament to the sophistication—both artistically and technically—of those holding creationist views.

Perhaps, not surprisingly, the man-from-monkey motive is prominent in the song which is set in a modern high school biology class. As a cute blonde co-ed stares in boredom at her textbook—replete with drawings of monkeys—while the teacher drones on about evolution, the text illustrations magically come alive with Geoff and his band singing what is apparently the student's feelings:

I was starin' at the blackboard, tryin' to keep from sleepin';
Doin' my very best to hear the subject they were teachin';
When to my surprise I couldn't believe my ears,
"This is what you looked like back a million years."

"Your uncle was a monkey—was swingin' through the trees;
He lived on green bananas, and his arms swung to his knees."
He spoke with such conviction, he really made me think:
"Maybe my teacher—he's the missing link!"

Chorus: He said, "I believe in evolution: (ask me no questions, I'll tell you no lies);

It's the only possible solution.' (big-hang fiction, re-factualized!)

In the second stanza, Geoff and band (still from within the pages of the biology text) seek to address the girl's questions—this time cleverly changing the chorus from the teacher's evolutionary explanations to a theistic one:

It takes a lot of faith to say we were accidents of nature;
But I believe we are the work of a loving creator.
Now you can wait a million years hoping nature does its part.
But it only takes a minute for God to change a heart.

Chorus: That's why I believe in evolution: changing of the heart, renewing of the mind;

It's the only true solution: God is always working, changing lives (changing lives);

Evolution redefined!

Although the broader aim of the group and their songs is that of witnessing to their personal faith in Jesus Christ, they cleverly make their point with a combination of the latest music video techniques coupled with the ever-popular monkey imagery. While no longer part of the earlier event song genre, the durable man-from-monkey metaphor has managed to leap-frog a couple of musical generations and finds itself still providing a humorous yet effective critique of popular evolutionary thought.

When the Dayton town fathers hatched the idea for the Scopes trial back in 1925, they had lofty visions of attracting the attention of business and industry which would revitalize the economically struggling hamlet. Yet, while they were highly successful in attracting attention, the hoped-for economic boost never materialized. What the town did realize was the legacy of becoming "Monkey Town," dubious home of the nation's most famous trial to date.⁶⁵ Over the intervening decades townsfolk have sometimes struggled with their relationship to the famous event; while most remembered it as an important happening which put Dayton on the map, some felt embarrassment at the hillbilly image that went with the notoriety.

Then in 1977, the courthouse was designated a National Historic Landmark, and a major renovation of the building later restored the working courtroom to its 1925 appearance—complete with spittoons: an impressive Scopes Trial Museum was also added on the ground floor. In 1988, the community began presenting a sort of living history re-creation of the event entitled "Scopes Trial: Destiny in Dayton."⁶⁶ Taken almost entirely from the trial transcripts and reduced to two-plus hours—rather than the eight days of the original trial—the production features local townspeople, some of whom attended the trial as children. The production's biggest novelty is that it takes place in the original courtroom, with jury members being chosen from the audience at each performance. A second highlight is the pre-show entertainment which features renditions of many of the Scopes songs by veteran folksinger Tom Morgan.⁶⁷

In the years since the trial, Dayton has remained famous as Monkey Town, and curious sightseers who pulled off winding Highway 27 were famous for attempting a bit of humor when asking for directions. "Do any monkeys still live here?" was a common inquiry. "No, but quite a few pass through town," was the solemn reply, offered with just a slight twinkle in the eye. Although rural folk supposedly lost the cultural battle of the 1920's, one suspects that behind that slight twinkle, many are still remembering a few lines from that old Scopes song, "You Can't Make a Monkey Out of Me."

Notes

1. Chapter 17, House Bill 185 (By Mr. Butler) in Public Acts of Tennessee for 1925, pp.50-51.
2. The bill was technically enacted into law when Governor Peay signed it on March 21. For various accounts and perspectives dealing specifically with the trial, see R. M. Cornelius, "Their Stage Drew All the World: A New Look at the Scopes Evolution Trial" *Tennessee Historical Quarterly*, Vol. XL, No. 2 (Summer, 1981); L. Sprague de Camp, *The Great Monkey Trial* (NY: Doubleday, 1968); Sheldon Norman Grebstein, ed., *Monkey Trial: The State of Tennessee vs. John Thomas Scopes* (Boston: Houghton Mifflin, 1960); Edward J. Larson, *Trial and Error: The American Controversy over Creation and Evolution* (NY: Oxford Univ. Press, 1985); Marvin N. Olasky, "When World Views Collide: Journalists and the Great Monkey Trial" (ERIC document: ED272 925, 1986); John T. Scopes and James Presley, *Center of the Storm: Memoirs of John T. Scopes* (NY: Holt, Rinehart and Winston, 1967); Jerry P. Tompkins, ed., *D-Day at Dayton: Reflections on the Scopes Trial* (Baton Rouge: Louisiana State Univ. Press, 1965). A complete stenographic account of the trial compiled from newspaper transcripts was originally printed by George Metzger and William Hilleary (Cincinnati: National Book Co., 1925) and is still available in reprint: *The World's Most Famous Court Trial* (Dayton, TN: Bryan College, 1990).
3. One of executive secretary Milner's jobs at the ACLU was to scan newspapers for possible violations of civil rights. De Camp 88; Lucille Milner, *Education of an American Liberal* (NY: Horizon, 1954).
4. Grebstein 200.
5. Although Scopes had no recollection of teaching the subject, he had substituted during the spring for the school principal, who regularly taught the biology class. During those classes Scopes referred students to their regular textbook, Hunter's *Civic Biology*, which contained a brief section on evolution. Unlike most fictionalized accounts of the trial, Scopes was never jailed for breaking the law. One of the Dayton citizens responsible for promoting the test case was attorney Sue Hicks, the original "Boy Named Sue" of Johnny Cash fame.

6. See Leroy Ashby, *William Jennings Bryan: Champion of Democracy* (Boston: Twayne, 187); Paolo E. Coletta, *William Jennings Bryan, Vol. I Political Evangelist, 1860-1908, Vol. II Progressive Politician and Moral Statesman, 1909-1915, Vol. III Political Puritan, 1915-1925* (Lincoln: University of Nebraska Press, 1964-69); Louis W. Koenig, *Bryan: a Political Biography of William Jennings Bryan* (NY: Putnam's Sons, 1971); Charles M. Wilson, *The Commoner: William Jennings Bryan* (Garden City, NY: Doubleday, 1970).
7. See John E. Driemen, *Clarence Darrow* (NY: Chelsea House, 1992); Irving Stone, *Clarence Darrow for the Defense* (Garden City, NY: 1941); Kevin Tierney, *Darrow: A Biography* (NY: Crowell, 1979), Arthur and Lila Weinberg, *Clarence Darrow: A Sentimental Rebel* (NY: Atheneum, 1987).
8. Not everyone viewed this as an epic event. The experienced reporter Michael Williams, writing for *The Commonweal* on July 22, clearly found it a media creation. "The expected onrush of tourists and interested onlookers has not materialized. If it were not for the newspaper workers, Dayton today would be what it was yesterday, and will be again tomorrow.... The press has made this story. Its spotlight has been turned upon Dayton as if by a common agreement among all editors everywhere that it was naturally the thing to do." Quoted in Grebstein 220. On the first day of the trial, the *Chattanooga Times* of July 10 reported, "Crowds on the streets of Dayton were something of a disappointment to the hot dog dealers. Perhaps tomorrow the actual attendance will justify the anticipatory headlines of 'Throngs Move on Dayton.'"
9. Norm Cohen, "Scopes and Evolution in Hillbilly Songs" *JEMF Quarterly*, Vol. 6, Part 4, No. 2 (Winter, 1970) 175; Charles Wolfe, "Carson J(ay) Robison," *The New Grove Dictionary of American Music*, eds. H. Wiley Hitchcock and Stanley Sadie, vol. 4, p. 57.
10. See T. J. Jackson, *No Place of Grace: Antimodernism and the Transformation of American Culture, 1860-1920* (NY: Pantheon, 1981).
11. Even some city folks saw jazz as morally dangerous. Industrialist Henry Ford, whose Model T was one of the biggest agents of cultural change, promoted old-time country fiddling as an antidote to the morally questionable jazz. Bill C. Malone, *Country Music U.S.A.*, rev. ed. (Austin: Univ. of Texas, 1985) 42.
12. *New York World Telegram and Sun* 9 July 1956: 19, quoted in Olasky 6.
13. *New York Journal American*, 11 Sept. 1960: 19, quoted in Olasky 6.
14. De Camp 327.
15. Simon M. Bessie, *Jazz Journalism: the Story of the Tabloid Newspapers* (1939; NY: Russell and Russell, 1969) 44.
16. Warren Allem, "Backgrounds of the Scopes Trial at Dayton, Tennessee," thesis: Univ. of Tennessee, 1959, 92. Personal interview, 14 Feb. 1959. Allem records numerous additional firsthand accounts of this practice.
17. Scopes and Presley 183-184.
18. See Charles A. Fecher, *Mencken: A Study of His Thought* (NY: Knopf, 1978); Edgar Kemler, *The Irreverent Mr. Mencken* (Gloucester, MA: Peter Smith, 1971); William Manchester, *H.L. Mencken: Disturber of the Peace* (NY: Collier, 1950).
19. H.L. Mencken, *Prejudices: Fifth Series* (NY: Alfred A. Knopf, 1926) 65-66. Mencken's antagonism to all things rural was probably not helped by being duped by local Daytonites who ostensibly ushered Mencken out into the country to interview a hayseed preacher. As it turned out, the old parson was fluent in both Greek and Hebrew; not surprisingly Mencken didn't take kindly to being made a monkey of.
20. Grebstein, in the Preface to his *Scopes Trial*, states: "In the section on 'The Editorial Reaction' I have tried, as elsewhere, to present a selection of material which would fairly represent differing points of view. That the majority of the editorials seem to attack Bryan, the Tennessee law, and the conduct of the trial is not due to the bias of the present editor but reflects the bulk of what was actually printed" (x-xi).
21. Larson's *Trial and Error* traces this view in some detail, as popularized in the writings of Paxton Hibben, William Leuchtenburg, and especially the influential Richard Hofstadter (72-73).
22. H.L. Mencken in *Chattanooga News* 18 Sept. 1925 (reprinted from *Baltimore Sun*).
23. Archie Green in "Hillbilly Music: Source and Symbol," *Journal of American Folklore* 78.309 (July 1965), traces the term hillbilly—as a generic for commercial country music—to a recording session with Okeh Records in New York on January 15, 1925. Green also reveals how this music reflected changing cultural attitudes concerning the nature of rural life.
24. The boys were Howard Morgan and Harry "Bud" Shelton. Of the boys' obviously coached testimonies, in which they described in detail the evolutionary teachings that Scopes had supposedly taught them while occasionally substituting in biology class. Scopes later wrote, "If the boys had got their review of evolution from me, I was unaware of it. I didn't remember teaching it. I wouldn't claim credit for the boys' knowledge, and I doubt that they had remembered that much from the regular classes" (134). Bud Shelton, the last surviving participant of the Scopes trial, died in Dayton in June of 1994.

25. Wolfe, *New Grove Dictionary of American Music* 57.
26. Malone 45.
27. Information concerning sales figures supplied by Charles Wolfe, "Disaster Songs: Chronology of early (1925) disaster songs," typescript.
28. Hugh Leamy. "Now Come All You Good People," *Collier's* 2 Nov. 1929: 20, 58-59, reprinted in Linnell Gentry, *A History and Encyclopedia of Country, Western, and Gospel Music* (Nashville: Clairmont, 1969) 8.
29. Gentry 10.
30. Irwin Stambler and Grellun Landon, eds., *The Encyclopedia of Folk, Country and Western Music* 2nd ed. (NY: St. Martin's Press, 1983) 159.
31. All except "The Death of Floyd Collins" were written by Robison.
32. Wolfe, "Disaster Songs."
33. Stambler and Landon 159,
34. Cohen 180.
35. This logical combination might also have been employed by Columbia had they not produced their "Scopes Trial" before Bryan's death.
36. Charles K. Wolfe in *TN Strings* (Knoxville: Univ. of Tennessee Press, 1977) 7-8, describes the popularity and performance practices of this genre in the Kentucky-Tennessee area.
37. Gentry 11.
38. Malone 46.
39. Recorded 7 Aug. 1925 for Vocalion release #15094.
40. One recounted "The Southern Railroad Wreck, Which Occurred Near New Market, Tennessee, September, 1904" and the other recorded the murder of "Little Mary Phagan" in Knox County, Ky. (Cohen 176; Wolfe, *Strings* 8, 10, 30).
41. Release #15094.
42. Wolfe, *Strings* 32.
43. Arthur Weinberg, ed., *Attorney for the Damned* rev. ed. (1957; NY: Simon and Schuster, 1983) 70, 76.
44. Weinberg 67.
45. Darrow was successful in saving his two clients from execution. Although both men were sentenced to life plus 99 years, neither served out the full term. Loeb was murdered by another inmate in 1936, and Leopold was paroled in 1956. Bryan was familiar with Darrow's views and pointed them out during the trial to demonstrate that ideas and concepts taught in schools could influence behavior negatively—something Darrow was denying at Dayton.
46. Ralph K. Andrist, ed., *The American Heritage History of The Confident Years, 1865-1916* (NY: Bonanza Books, 1987) 281.
47. Cohen 178.
48. Thomas S. Johnson, "The Ghost of Charles Nabell: Searching for the First Recorded Western Folk Singer, *JEMF Quarterly* 21. 77/75 (Fall/Winter 1985): 134-145. The thrust of this article is that after a creative and diligent investigation into the life of Nabell, almost nothing is known.
49. Nabell also recorded a few songs with western or cowboy themes and has been credited as "the first traditional western singer to make commercial phonograph records" (Johnson) 134.
50. Cohen 177.
51. Wolfe, *Strings* 33.
52. Cohen 178-179. Although Macon apparently recorded his song only one time, it was recorded by others such as the Gentry Family Quartet for Victor in October of 1928.
53. To suggest that rural folk such as Macon and other Scopes songwriters were familiar with the more sophisticated ramifications of evolutionary thought and its broader implications may initially appear questionable until one realizes that Bryan's closing speech at the trial dealt precisely with such matters at length and in detail. The 15,000-word speech was published in Chattanooga soon after the trial and was widely read.
54. Wolfe, *Strings* 40.
55. Gennett, Champion, Supertone. Silvertone (2 release numbers), Challenge, and Herwin.
56. Cohen 181.
57. Because the trial closed with the defense requesting the jury to return a guilty verdict, there was no need for prosecutor Bryan to make the closing argument that was planned as a great summation of the issues involved. However, the press was so desirous of hearing the address, that Bryan promised to have it published. This task occupied the last week of his life. As a primary resource, it is clearly one of the best documents to understand how Bryan himself (and those he represented) comprehended and responded to

this highly controversial issue. It is included as a supplement in *The World's Most Famous Court Trial: Tennessee Evolution Case* 321-339; also see William Jennings Bryan and Mary Baird Bryan, *The Memoirs of William Jennings Bryan* (Phila: John Winston Co., 1925) 529-556.

58. George William Hunter, *Essentials of Biology: Presented in Problems by George William Hunter* (NY: American Book Co., 1911) 196. A new edition entitled *Civic Biology* was the book used by Scopes in 1925; it was revised in 1926 as *New Civic Biology* with a conspicuously more muted approach to evolutionary theory. Hunter's book was the most widely used high school biology text of the day. For a discussion of American high school science texts and their views towards Darwinism, see Larson, *Trial and Error*, chapter one, "Scene of the Crime: Evolution in American Education before 1920."
59. Richard Hofstadter, *Social Darwinism in American Thought* rev. ed. (Boston: Beacon Press, 1955) 200.
60. There are several additional songs that grew out of the trial but for various reasons are not included in this group representing an "alternative voice." One is "Darwin's Monkey Trot" with words and music by Raymond and Helen Boren (Snyder, Texas: J. D. Boren, 1925). Although written for solo voice with piano, the fox-trot, ragtime piano accompaniment clearly reveals this song to be a spoof on the whole subject. So does its cover with caricatures of Bryan and Darrow holding a monkey. "The Monkey Case" with words by Edgar P. Elzey and music by Prof. J. Ludwig Frank [most likely pseudonyms] (Parkersburg, W.Va.: The Elzey Co., 1925) is more like a sophisticated parlor song than a country ballad.
61. Not all claims of record sales can be taken at face value. Frank Wailer, one of the seminal producers of early country music, stated in an interview with Mike Seeger that, "We sold 60,000 of them [recordings of Scopes songs] on the steps of the courthouse in Dayton, Tennessee—just during that tremendous trial." Josh Dunson and Ethel Raim, eds., *Anthology of American Folk Music* (NY: Oak Publications, 1973) 11. Wailer's recollection is highly suspect on at least two counts. There were no recordings about the trial available while it was in session (the first was issued a month later) and nowhere near 60,000 people ventured within the entire county during the trial (the town of Dayton contained less than 2,000 people and the horde of expected sightseers never materialized).
62. Malone 42.
63. Langdon Gilkey, *Creationism on Trial: Evolution and God at Little Rock* (Minneapolis: Winston Press, 1985); Mureel La Follette, ed., *Creationism, Science and the Law: The Arkansas Trial* (Cambridge, MA: MIT Press, 1983); Larson, *Trial and Error*.
64. Forefront Communications Group, Inc., 1994; FFV7002. The video is actually a mini-movie with a plot running throughout connecting the scenes.
65. In the pre Zip Code era, it was possible to mail a letter addressed simply "Monkey Town, Tenn." and it usually arrived in Dayton.
66. The play was written by Frank Chapin. Since 1998, a new dramatization based primarily on the trial transcript and written by Gale Johnson, has been presented.
67. Morgan is a well-known local bluegrass musician who was active for many years in the Washington, D.C., area; he is also widely known as a maker and restorer of fine instruments. See Reni Haley, "Tom Morgan: Best of Both Worlds" *Bluegrass Unlimited*, August, 1988. His first-hand knowledge of and insights into the Scopes songs has been invaluable.



"They're Off" was the caption of this newspaper cartoon. The cartoon was drawn by W. Norman Ritchie, cartoonist for the *Boston Post* for 50 years, under the signature of "Norman."

The Truth About *Inherit the Wind*

By Carol Iannone

Carol Iannone has combined well the roles of town and gown, private expression and public policy. She has taught at such institutions as the New York University Gallatin School of Individualized Study and was special assistant to Morris Abram when he was Chairman of the United States Commission on Civil Rights. Currently she is Vice President of the National Association of Scholars and is Editor-at-Large of its journal, Academic Questions. She has served on the Board of Trustees for the Woodrow Wilson Center in Washington, D.C., and was co-chair with William Bennett of "Free Individuals in a Free Society," a Policy Council of the National Policy Forum. Her numerous articles on literary and cultural topics have appeared in such publications as The Antioch Review, National Review, Intercollegiate Review, Modern Age, The American Scholar, and American Arts Quarterly. The following article first appeared in First Things, No. 70 (Feb. 1997): 28-33, and it is reprinted with permission.

In the middle of the hot summer of 1925, the famous "Monkey Trial" took place in Dayton, Tennessee, a small town of about eighteen hundred people in the Cumberland Valley. A young teacher named John Scopes stood accused of violating the Butler Act, a measure passed earlier that year to restrict the teaching of evolution in state-funded schools. The defense featured the famous attorney Clarence Darrow, and the prosecution starred the celebrated orator, populist, and three-time Democratic presidential candidate William Jennings Bryan. Nearly two hundred reporters descended upon the town, including H. L. Mencken of the *Baltimore Evening Sun* (which helped underwrite Scopes' defense). Newspapers and magazines carried innumerable articles and cartoons on the case, and telegraph operators wired stories to Europe and Australia. For the first time news of an American trial was nationally broadcast by radio, while thousands of people came to Dayton itself to take in what became a virtual carnival, complete with side-shows.

Thirty years later, Jerome Lawrence and Robert F. Lee set what they saw as the essence of the whole extraordinary episode in their play *Inherit the Wind*, which has since become a classic of the American theater. An acclaimed 1960 movie version, directed by Stanley Kramer and starring Spencer Tracy and Frederic March, is widely available in video stores, while the original play is frequently performed in theaters around the country. Altogether, *Inherit the Wind* supplies the view most Americans have of the Scopes Trial, and it often surfaces in response to some development in the never-ending quarrels between evolutionists and creationists. When the play was revived on Broadway in 1995 by Tony Randall's National Actors Theater, Randall—citing recent renewed efforts by the Tennessee state legislature to restrict the teaching of evolution—asserted that the play is "much more timely today than when it was written."

There is finally something shallow about the high-minded social realism in much twentieth-century American drama, with its progressive and open-ended vision of life. Lawrence and Lee's skillful and often riveting collaboration in *Inherit the Wind* is no exception. As the play opens, Bertram Cates—a courageous and idealistic young teacher in Hillsboro, Tennessee—is imprisoned in the town jail for teaching evolution to his high school biology class. Matthew Harrison Brady, populist icon, three-time Democratic presidential candidate, and leader of the crusade against evolution, arrives in Hillsboro to prosecute the case, where he is greeted by the mayor and a large, enthusiastic crowd singing "Give me that old-time religion."

Also arriving in Hillsboro, however, is E. K. Hornbeck of the *Baltimore Herald*, who has championed Cates in his columns and is greatly and haughtily amused at the spectacle of ignorance and bigotry before him. Speaking in a kind of ironic poetry-patter, he constantly mocks Brady and the pious provincialism that supports him: "Ahhhh, Hillsboro-Heavenly Hillsboro / The buckle on the Bible Belt." Hornbeck announces that the lone, embattled Cates will have a

defender, courtesy of the *Herald*—the great Henry Drummond, who sidles into town later that evening with little notice. Brady is adored and applauded as he pontificates about the evils of evolution and gobbles large amounts of food, but poor Drummond is shunned by the townspeople.

In the course of the trial, Brady starts out confidently, full of self-righteousness and ready rhetoric about “the Revealed Word.” Not only are the courtroom spectators clearly with Brady, but the judge excludes Drummond’s scientific witnesses on the grounds that evolution itself is not on trial. Desperate for some way to challenge the law under which Cates stands accused, Drummond decides to put Brady on the stand as an expert on the Bible, and Brady accepts the challenge with gusto. The ensuing examination turns the case around: Drummond exposes Brady’s untenable literal acceptance of the Bible, not to mention his understanding of himself as a self-anointed prophet. The crowd begins to laugh at Brady, and, after the courtroom empties, he seeks comfort in the bosom of his mothering wife.

Though the jury brings in the inevitable guilty verdict, it is clear that Drummond has triumphed—and along with him, freedom of thought. The judge charges Cates a token fine of one hundred dollars. Protesting the light punishment, Brady tries to make what he considers an all-important closing speech, but the judge, embarrassed at the negative publicity the town has received, precipitately ends the trial. Sputtering and shouting, Brady collapses and is taken from the courtroom and shortly afterward dies.

Along the way, the play develops a conventional subplot concerning Cates’ fiancée, Rachel Brown, who at first wants him to recant. Tricked by Brady into testifying about private discussions that tend to incriminate Cates as a nonbeliever, she eventually sees her mistake and finds the strength to stand beside him. Her father Jeremiah is a fire-and-brimstone preacher who, in a vengeful prayer meeting the first night of the trial, nearly scares the wits out of his daughter until the more benign Brady intervenes. The film version of *Inherit the Wind* shows the town’s populace burning Cates and Drummond in effigy and throwing rocks through the window of Cates’ cell. The play itself lacks these incidents, but indicates that the townspeople’s response to Cates is ugly and hateful. As Drummond puts it, “You murder a wife, it isn’t nearly as bad as murdering an old wives’ tale.”

And yet, in discussing Brady’s death after the trial, Drummond repudiates the journalist Hornbeck’s scathing ridicule. As Drummond sees it, Brady was a once-great man who had ceased to move forward. When Drummond, in defense of Brady, shows that he too knows the Bible, Hornbeck charges him with being even more religious than Brady was. In its closing scenes, the play emphasizes again what it suggested throughout: Brady’s fundamentalism is wrong, but so is Hornbeck’s godless cynicism. The enlightened and humane Drummond’s intention was not to tear down legitimate belief but only to fight ignorance and bigotry. In the last scene he picks up Darwin’s *The Origin of Species* and the Bible, weighs them thoughtfully in his hands, and exits confidently with both books in his briefcase.

While *Inherit the Wind* remains faithful to the broad outlines of the historical events it portrays, it flagrantly distorts the details, and neither the fictionalized names nor the cover of artistic license can excuse what amounts to an ideologically motivated hoax. The film, for example, depicts Cates arrested in the act of teaching evolution by a grim posse of morally offended citizens, while in fact no effort was made to enforce the Butler Act. What actually brought the issue to light—never mentioned in play or film—was that the American Civil Liberties Union advertised for someone to challenge the law. Several Dayton citizens, hoping the publicity would benefit their town, approached Scopes as a possible candidate. Scopes was actually a mathematics teacher and athletic coach and had only briefly substituted as a biology teacher. He did not

remember teaching evolution, but he had used the standard textbook, Hunter's *Civic Biology*, which contained a short section on the subject. Scopes was surprised to hear how relatively knowledgeable the student witnesses were, and he speculated that they must have picked up what they knew somewhere else and come to associate it with his class. Scopes himself knew little beyond the rudiments, and the defense thought it best to keep him off the stand, where his lack of knowledge (not to mention his uncertainty as to whether he had taught the subject) might prove embarrassing.

Far from being imprisoned, let alone hung in effigy, Scopes was free after his indictment. After traveling to New York to meet the ACLU Executive Board that included Norman Thomas and Felix Frankfurter, he lived in his Dayton boarding house, continuing to have friendly intercourse with the townspeople and greeting the visitors streaming into town. In fact, there was no prison sentence connected to violation of the Butler Act. Bryan actually argued against even a monetary fine, and—far from demanding a harsher penalty for Scopes—offered to pay the defendant's fine himself. Scopes attended a dinner given by the Dayton Progressive Club in honor of Bryan's arrival, and Bryan, famous for remembering people, recognized Scopes as one of a gaggle of giggling graduates he had addressed at a high school commencement six years earlier. Bryan's kindness and sincerity were acknowledged even by his enemies, and spoke amiably to Scopes, insisting they could be friends despite their disagreement.

As for Darrow, he was greeted on his arrival in Dayton by a crowd about as large and friendly as the one that had greeted Bryan—not, as Drummond is, by a little girl screaming "Devil" in the play or a scowling mountaineer in the film. Darrow was feted at a Progressive Club dinner just as Bryan was. Being a folksy, small-town type himself, Darrow gained the good graces of the locals, and many of the spectators at the trial showed support for the defense. As a result of the perceived importance of the case, Darrow had at his side a defense team that included Arthur Garfield Hays of the ACLU, the famed international divorce lawyer Dudley Field Malone (who had served as Bryan's Undersecretary of State in the Wilson Administration), and constitutional expert John Randolph Neal. Scopes later wrote that he couldn't have done better if he'd had all the money in the world.

In *Inherit the Wind*, Cates loses his teaching job. As he makes his closing statement before being sentenced, mentioning that he is a schoolteacher, an old crone shrills out, "Not any more you ain't!" But Scopes reported in his memoir that his job was still open to him even after the verdict. People involved in his defense offered him a scholarship for graduate school, however, and he went to the University of Chicago to study geology. He believed that a later fellowship was denied him because of the trial controversy, but he did have an active career as a geologist.

The essential plot elements of *Inherit the Wind*—the lonely stand of the brave individualist against the small-minded bigotry of the townspeople, Cates' fear and trembling as he waits in his prison cell, the threat of ruin hanging over his head ("The Scopes character and his fiancée play each scene as if he were on the way to the electric chair," wrote one film reviewer)—are pure fabrication. Far from living in fear, Scopes went swimming during one hot lunchtime recess with two of the young assistant prosecutors (including Bryan's son). The reprimand Scopes received from defense attorney Hays when they were late getting back to the courtroom may have been the roughest treatment he received.

So, too, *Inherit the Wind* distorts its Bryan figure. The play does allow a certain benignity, color, and agility to the man, if only to give Drummond a worthy adversary, but in many ways it belittles him. Years after the trial, the playwrights met with Hays, who may have influenced their picture of Bryan. But many journalistic accounts even at the time depicted a past-his-prime Bryan trailing clouds of fundamentalist ignorance and, like Brady, squirming in distress on the

witness stand under his adversary's questioning. Many reporters seemed to share the prejudices of Mencken, who ridiculed Bryan in print as "a tinpot pope in the coca-cola belt." The historian R. M. Cornelius, who has written a great deal on the Scopes Trial, reports, "A review of the trial press coverage reveals that the typical newsman had both an ear for a good story and a mouth hungry for Bryan's blood." One reporter never even attended the trial sessions, remarking, "I don't have to know what's going on; I know what my paper wants me to write." During the famous cross-examination by Darrow only six reporters were present; the others were taking a long lunch, thinking that the most important portions of the trial had passed. (Scopes later helped the absentee reporters file their stories.) The number of reporters dwindled during the trial, and even Mencken did not stay through the whole eight days.

A review of the actual transcript reveals that Bryan was often exuberant, funny, discerning, and focused during the trial. It also shows, contrary to *Inherit the Wind*, that he was familiar with Darwin, and may even have understood the evolutionary doctrine better than his adversaries, or at least had a better idea of what was really at stake. He did have some embarrassing moments during the ninety minutes of Darrow's relentless questioning, but he often gave as good as he got.

Bryan was not a biblical literalist. He volunteered to Darrow—it was not wormed out of him, as the play suggests—that the "days" in the biblical account of creation were not twenty-four hour days; he cited Genesis 2:4, in which the word "generations" seems to be used as a substitute for "days." He did not insist that the "sun stood still" in Joshua 10:13, but explained that the Bible was using the language of the time. At the same time he did not yield on his belief in miracles and the primacy of divine power. If his supporters felt disappointment over Bryan's testimony—the play makes much of the crowd's turning on him—it was not because he looked stupid as a defender of crude fundamentalism, but because he wasn't a defender of crude fundamentalism.

Bryan's real mistake was to take the stand at all, but he seemed to feel he had to accept Darrow's challenge to testify or implicitly admit the indefensibility of his position, and he later felt that he had at least stood his ground. "These gentlemen," he said on the stand, "came here to try revealed religion. I am here to defend it, and they can ask me any questions they please." For his part, Darrow realized that neither the constitutionality of the Butler Act nor the truth of evolution could be settled in Dayton, but he relished the publicity he could gain for his cause: "Preventing bigots and ignoramuses from controlling the education of the United States," as he memorably put it.

But it is certainly not true that Bryan and his beliefs were crushed in Dayton. Scopes himself, even while sporadically trying to render a portrait of a broken man, remarked that the Great Commoner seemed amazingly buoyant during the trial, always remaining the exuberant Bryan who could survive any defeat. And while the antievolutionary cause may have suffered embarrassment, the guilty verdict was overturned a year later only on a technicality. Several state laws similar to the Butler Act were not declared unconstitutional until 1968.

But it is true that Bryan was not able to deliver the lengthy closing statement he considered his life's "mountain peak," but not because the judge cut short the trial. Rather, after the cross-examination of Bryan (which was stricken from the record the following day), Darrow stated his willingness to accept a guilty verdict in order to move to appeal. This obviated the need for closing statements. Darrow later admitted that the defense had purposely wanted to deprive Bryan of his closing statement for fear of his legendary oratorical powers.

Moreover, Bryan did not have a mortal stroke in the courtroom, but died five days after the trial. His death may have been due partly to exhaustion and stress, but he also suffered

from a diabetic condition that he did not carefully watch. He passed away peacefully during an afternoon nap and after a heavy meal. (The irreverent line spoken by the cynical Hornbeck at Brady's death—"He died of a busted belly"—was actually Darrow's private remark on hearing that Bryan had died.) But as historian Lawrence W. Levine puts it, if Bryan was destroyed by the trial, "he did a masterly job of concealing it during the five days of life remaining to him." Bryan took heart in the legal victory and set himself to the fight with renewed vigor. He traveled, gave speeches, and arranged for publication of the address he had not been permitted to deliver. Scopes himself denied that the trial killed Bryan, though perhaps because he did not want his side to bear the onus.

Even in small things, *Inherit the Wind* goes out of its way to diminish Bryan. Drummond derides the honorary title of "Colonel" that Hillsboro bestows upon Brady, protesting, "I am not familiar with Mr. Brady's military record." In fact, Bryan had been a colonel in the U.S. Army during the Spanish-American War (though he never saw combat). The play's Brady is mothered by a wife who cradles him in her bosom, murmuring, "Baby; Baby," though Bryan's wife was actually a semi-invalid of whom he was protective and solicitous.

These systematic alterations serve a single, obvious end: to ridicule Bryan and his followers for their backwardness and religious prejudice. The stage directions instruct, "It is important to the concept of the play that the town is visible always, looming there, as much on trial as the individual defendant." The thinker is in jail, while the "morons" (as Mencken called them) roam free—led by Brady, "the idol of all Morondom" (as Darrow later termed Bryan). The stage directions indicate the time of the play as "Not too long ago," and the playwrights' note—always included in any production's program—declares ominously, "It might have been yesterday. It could be tomorrow." The trial, as Arthur Garfield Hays put it, "was a battle between two types of mind—the rigid, orthodox, accepting, unyielding, narrow, conventional mind, and the broad, liberal, critical, cynical, skeptical, and tolerant mind."

But was it really so simple? Since much of Bryan's political progressivism is in keeping with the playwrights' own views, they split the Bryan figure in two—the "enlightened" progressive champion of the common man versus the "bigoted" religious fundamentalist. Drummond, who had supported Brady in two of his presidential bids (as Darrow had supported Bryan in real life), says at Brady's death, "A giant once lived in that body. But Matt Brady got lost. Because he was looking for God too high up and too far away." In fact, the two sides of Bryan, the democratic and the religious, were complementary. According to historian LeRoy Ashby, Bryan was sustained by "the combined heritages of evangelical faith and the republicanism of the nation's revolutionary era." The democracy he worked for was built upon "the virtuous citizen," and he worried that Darwinism "would cause people to lose a sense of God's presence. . . . It justified an economic jungle and 'discourages those who labor for the improvement of man's condition.'" Convinced as he was that belief in God and in man's spiritual nature was vital to human progress and a just social order, Bryan was troubled by numerous reports he had received of young people who had lost their faith under the tutelage of skeptical, even atheistic, professors. Bryan believed in separation of church and state, but according to Ashby, he felt such stories of lost faith indicated "that the state was in fact teaching against religion, and that atheists and evolutionists were enjoying something against which democratic reformers had long battled—special privileges."

Although *Inherit the Wind* presents a Bryan torn by fear of change, it was actually Darrow who was caught in contradictions. Darrow was an agnostic determinist—the play's suggestion that Drummond may be "more religious" than Brady is another fabrication—who believed that human beings are driven by forces beyond their control. Yet in the Scopes Trial he defended the individual mind and freedom of thought. Darrow's questions to Scopes' students—"Did

it hurt you any?" Do you "still believe in church although you were told all life comes from a single cell?" (the play adds "Haven't murdered anybody since breakfast?")—were simply disingenuous. One year earlier, Darrow had defended Nathan Leopold and Richard Loch, two brilliant university students who murdered a boy for the intellectual experience of committing the perfect crime. At Dayton, Bryan read out Darrow's famous excuse for the earlier defendants: "Is there any blame attached because somebody took Nietzsche's philosophy seriously and fashioned his life on it? . . . Your Honor, it is hardly fair to hang a nineteen-year-old boy for the philosophy that was taught him at the university." As Richard Weaver commented on Bryan's use of the Leopold and Loeb record: "To Darrow's previous position that the doctrine of Nietzsche is capable of immoral influence, Bryan responded that the doctrine of evolution is likewise capable of immoral influence."

Both the play and the movie version of *Inherit the Wind* vastly oversimplify religion's relation to evolution. The play insists that there is no contradiction between Christianity and Darwinism. "It is only a matter of the method He has chosen in creation," Maynard M. Metcalf, a zoologist from Oberlin College, declared in expert testimony permitted at the trial (though not before the jury). As the play's Cates puts it, "Living comes from a long miracle, it didn't just happen in seven days." The defense, both actual and fictional, wanted to isolate an ignorant, biblical literalism as the only kind of religion that disputes evolution. And, indeed, they have been joined in this view by many mainstream religious leaders in the seventy years since. This understanding has been challenged more recently, however, by such credible figures as Philip E. Johnson of the University of California, and William B. Provine, an historian of science from Cornell. A leading adherent of Darwinian evolution, Provine has observed that "prominent evolutionists have joined with equally prominent theologians and religious leaders to sweep under the rug the incompatibilities of evolution and religion." Provine insists that evolution finds no intelligent design operating in nature and "no such thing as immortality or life after death." In fact, according to Provine, "we're produced by a process that gives not one damn about us."

Peter Steinfels, the *New York Times* religion reporter, heard Provine speak at a symposium on the Scopes Trial held at Vanderbilt University in 1995 and concluded: "It is easy to look back at the battle between rural piety and city cynicism waged seventy years ago in the Dayton courthouse, and feel superior. But maybe those people were right in thinking that something very important was at stake." The man who has been made a laughing stock thanks in part to *Inherit the Wind* seems actually to have understood all this in 1925. "The evolutionists have not been honest with the public," declared Bryan (who was, for what it's worth, a member of the American Academy for the Advancement of Science). He cautioned that "Christians who have allowed themselves to be deceived into believing that evolution is a beneficent, or even a rational, process have been associating with those who either do not understand its implications or dare not avow their knowledge of these implications." In *Inherit the Wind*, Drummond gives a tough-sounding speech about the tradeoffs of progress, instructing the jury that every advance of civilization requires that something be surrendered: "Darwin moved us forward to a hilltop, where we could look back and see the way from which we came. But for this view, this insight, this knowledge, we must abandon our faith in the pleasant poetry of Genesis." Yet, by play's end, Drummond is purveying some pleasant poetry of his own, indicating that Darwin and the Bible are compatible for all but a few religious fanatics.

Even the certainty of the doctrine of evolution was considerably oversimplified in both the real Scopes Trial and the fictional version in *Inherit the Wind*. Professor Metcalf testified at the real trial, "It is impossible for a normal human being, cognizant of the facts, to have the slightest doubt about the fact of evolution," and the fictional Drummond argues, "What Bertram

Cates spoke quietly one spring afternoon in the Hillsboro High School is... incontrovertible as geometry in every enlightened community of minds."

But is it? Bryan shrewdly described evolution as a hypothesis—millions of guesses strung together"—rather than proven theory. And he knew what was missing: "There is not a scientist in all the world who can trace one single species to any other." Nearly a century and a half after the publication of *The Origin of Species*, the proof for Darwin's theory remains spotty, according to Phillip E. Johnson and others. Bryan sounds at least reasonable when he argues, "If the results of evolution were unimportant, one might require less proof in support of the hypothesis, but before accepting a new philosophy of life, built upon a materialistic foundation, we have reason to demand something more than guesses."

Ultimately, however, the truth of evolution is not the theme of *Inherit the Wind*, but the "right to think," and even the "right to be wrong." (The film adds a "right to be lonely" for the misanthropic Hornbeck.) What the play seeks ultimately to defend are the larger prerogatives of "the broad, liberal, critical, cynical, skeptical, and tolerant mind." After the trial, Cates' fiancée Rachel, who has left her father's joylessly pious household, recites the lesson she has learned as she joins the forces of the enlightened:

You see, I haven't really thought very much. I was always afraid of what I might think—so it seemed safer not to think at all. But now I know. A thought is like a child inside our body. It has to be born. . . . Bad or good, it doesn't make any difference. The ideas have to come out—like children.

Of course, such a simple choice between bigotry and enlightenment is central to the contemporary liberal vision of which *Inherit the Wind* is a typical expression. But while it stands nominally for tolerance, latitude, and freedom of thought, the play is full of the self-righteous certainty that it deplores in the fundamentalist camp. Some critics have detected the play's sanctimonious tone—"bigotry in reverse," as Andrew Sarris called it—even while appreciating its dramatic quality and well-written leading roles. The play reveals a great deal about a mentality that demands open-mindedness and excoriates dogmatism, only to advance its own certainties more insistently—that promotes tolerance and intellectual integrity but stoops to vilifying the opposition, falsifying reality, and distorting history in the service of its agenda.

In fact, a more historically accurate dramatization of the Scopes Trial than *Inherit the Wind* might have been far richer and more interesting—and might also have given its audiences a genuine dramatic tragedy to watch. It would not have sent its audience home full of moral superiority and happy thoughts about the march of progress. The truth is not that Bryan was wrong about the dangers of the philosophical materialism that Darwinism presupposes but that he was right, not that he was a once great man disfigured by fear of the future but that he was one of the few to see where a future devoid of the transcendent would lead. The antievolutionist crusade to control what is taught in the schools may not have been the answer, and Bryan's own approach may have been too narrow. But the real tragedy lies in the losing fight that he and others like him waged against a modernity increasingly deprived of spiritual foundations.



Lawyers listen intently during the trial. Standing, from left, are Dudley Field Malone, Gordon Mckenzie, Wallace haggard (back), Herb Hicks and Attorney General Tom Stewart. Stated front is *Baltimore Sun* reporter H.L. Mencken. (Note to 2011 edition: Officials with the Mencken Society have questioned whether the individual so named actually is Mencken.)

The Local Scoops on Scopes: Local Newspaper Coverage of the Scopes Trial

By Wayne Haston

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"There is little likelihood that the test case proposed by a Northern organization will be staged here"¹ This declaration, which appeared in a front page article on May 4, 1925, must have been reassuring to many of the readers of the *Chattanooga Daily Times* who had followed the related events earlier in the year. On March 21 a state law, the Butler Act, had passed, which made it unlawful "to teach any theory that denies the story of the Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals." The American Civil Liberties Union (ACLU), the "Northern organization" mentioned in the article, intended to test this law and to impede the spread of similar laws throughout the South. Although the penalty for violating the law was minor, a simple misdemeanor involving a fine of between \$100 and \$500, the thought of evolution being taught in the local school system and the potentially embarrassing controversies surrounding an ACLU-sponsored court case were not appealing to most citizens in a Southern city such as Chattanooga.

The prophetic declaration, in one sense, later proved to be false. Although it was true that Chattanooga would not serve as the staging host of such a trial, a legal test case of the Butler Act which would capture the attention of the nation and much of the world would take place within the circulation boundaries of the *Chattanooga Daily Times*.

Seated in his office at the Cumberland Coal and Iron Company in Dayton, Tennessee, some forty miles north of Chattanooga, George Rappleyea, manager of the company, read the article with interest as he ate his lunch. Rappleyea picked up the telephone and called the chairman of the Rhea County school board and local pharmacist, F. E. Robinson. "I knew he was wrong," Rappleyea commented to Robinson regarding the statements given in the *Daily Times* article by the superintendent of schools in Chattanooga. Superintendent Ziegler denied that evolution was being taught in his schools, yet Chattanooga (Hamilton County) and Dayton (Rhea County) were using the same biology text which clearly espoused Darwin's theory.²

Later, Rappleyea, Robinson, Superintendent of Schools Walter White, and several attorneys assembled at Robinson's drug store. Sensing the potential economic boost that such a trial could add to the declining economy of Dayton, the group agreed to summon John T. Scopes, a young first-year teacher at Rhea County High School, and seek his agreement to act as a defendant in the case.³ The consent of Scopes, which was given with some reluctance, closed the deal. The chain of events to follow would, for the summer of 1925, make Dayton the "Center of World Struggle Between Modernists and Fundamentalists."⁴

In many ways the Dayton Scopes Trial was truly a "media event." The first [live] radio coverage of a trial occurred in Dayton. WGN, a Chicago radio station associated with the *Chicago Tribune*, was permitted to install its microphones and a soundproof telephone booth for an announcer.⁵ Two hundred newspaper reporters, including some of the most prominent journalists of the period, descended upon Dayton for the trial.⁶ Reporters telegraphed an estimated two million words from Dayton back to their home offices.

Consequently, it is not inappropriate to think that the newspaper coverage of the Scopes

Trial would be a phenomenon of interest to researchers. Several research studies have focused on the role that newspapers played in the trial and the perspectives of their coverage. The newspaper coverage that has been analyzed was generally that of some of the major metropolitan newspapers which were removed geographically and culturally from the general setting in which the trial occurred.⁷

What were the perspectives of the Scopes trial which were reflected in the newspapers in the general locale of Dayton, Tennessee? Unfortunately, only a single copy of one edition of *The Dayton Herald* from the summer of 1925 is known to exist.⁸ The two metropolitan dailies, the *Chattanooga Daily Times* and *The Chattanooga News*, which serviced Rhea County did provide extensive coverage of and interesting local perspectives on the events related to the Scopes trial during the period of May 4 through July 31 of 1925. Analysis of these local daily papers provides a unique, local perspective on "the world's most famous court trial,"

Several obvious thematic perspectives emerge from the many articles published in these local newspapers. The public image perspective, the civic competition perspective, the society news perspective, and the local history perspective were each given a considerable amount of treatment throughout the summer of 1925. Even more coverage was given to the ideological perspective, the local economy perspective, and the human interest perspective.

Public Image Perspective

The potential backlash of unpopular press coverage did not seem to occur to the Dayton civic leaders who staged the trial. Its reality, however, was not long in coming. Not only did it come soon, but it came from distant places around the world that had hardly heard of Tennessee, much less the little town of Dayton. The barrage continued throughout the summer of 1925 and into the decades beyond.

The editorial "Law Court or Circus" reprinted in the *Chattanooga Daily Times* from the *Wall Street Journal* was a typical reflection of the public image that was being created for Dayton during the trial. The editor spoke of "the surprising number of usually human beings who are making monkeys of themselves in Dayton, Tennessee."⁹ Even in adjacent Hamilton County, the headlines "Circus Day in Dayton" and "Monkey Shines and Jungle Antics Will Feature Big Publicity Party" expressed the editorial opinion of the weekly *Hamilton County Herald*. This lead story was accompanied by a large cartoon which depicted the major Scopes Trial participants as side show features.¹⁰

It did not take the editors of Chattanooga's daily papers long to foresee the barrage of embarrassing publicity which the trial would create. During the months of May, June, and July, editorial comments made in the *Daily Times* and *The Chattanooga News* expressed concern for the negative image impact of the trial upon Dayton and Tennessee in particular, as well as for all of the South in general.

The editors spread the blame around. The "intolerance to inquiry, and indifference to the search for truth" of Dayton's leaders was one culprit.¹¹ The anti-evolution bill was also blamed for making "Tennessee a laughing stock among enlightened, thinking, progressive people of other states and countries."¹² In an editorial titled, "We're All On Trial," the editor of *The Chattanooga News* argued that the bad publicity was really a North-South issue. Visitors from the North, the article explained, were really putting the entire South on trial.¹³ Chattanooga editors also indicted agents of the press from other cities, who had unfairly and irresponsibly exaggerated and misrepresented the people of Dayton. Editorials titled "Dayton Misrepresented"¹⁴ and "Unwarranted Ridicule"¹⁵ came to the defense of Chattanooga's small-town neighbors to the north.

During the trial *The Chattanooga News* paid for the rights to reproduce the caustic articles written by H. L. Mencken of the *Baltimore Evening Sun*. Mencken's writings were so offensive to local readers that the Chattanooga paper included a disclaimer and, on one occasion, a parallel article by a local reporter which ran under the title "A Defense of Tennessee With Apologies to H. L. M."¹⁶

Civic Competition Perspective

Numerous sub plots were interwoven into, around, and through the central plot of the Scopes Trial. Some of these were so dominant that at times it became difficult to remember the major plot. One such pre-trial sub plot involved the repeated and varied attempts, on the part of other Tennessee cities, to steal the trial from Dayton. As one might expect, these events were hot news items.

At least four other cities, Chattanooga, Knoxville, Nashville, and Cookeville, attempted to position themselves as hosts of the trial. Chattanooga made the first move, but Knoxville countered quickly. The Knoxville Chamber of Commerce discussed the possibility of getting a change of venue that would bring the trial to its city.¹⁷ Early in July, the defense counsel seriously discussed transferring the trial from the state court system to the federal court. Nashville was suggested as the host site.¹⁸ Knoxville and Chattanooga were also mentioned in conjunction with the possible shift to the Federal court.¹⁹ Within a week of the trial's opening session, Cookeville, in middle Tennessee, also was "after the laurels of Dayton for the sobriquet of 'Monkeyville.'"²⁰

It was Chattanooga, Dayton's metropolitan big sister, that made the first, the most numerous, and the strongest maneuvers to wrest the trial away from Dayton's tiny grips. Those grips, however, proved to be stronger than big sister expected. In the final month prior to the trial, Chattanooga tied its bid for the trial to the fact that Rhea County was within the federal court district of Chattanooga.²¹ That suggested change of venue was initiated by the defense attorneys.

Chattanooga played a more direct and aggressive role in some earlier attempts to secure the trial. Only two weeks after the arrest of John Scopes, the *Chattanooga Daily Times* went to work to hijack Dayton's big event. In its initial move, the Chattanooga paper sent a telegram to Dr. John R. Neal, chief counsel of the defense, offering Chattanooga's large and modern Memorial Auditorium as a "most desirable battleground for the attorneys."²² The proposition was supported by the argument that the trial would attract thousands of people and that the small courtroom in Dayton would not be sufficient to handle the crowds. The *Daily Times* had gone so far as to reserve the auditorium for the entire month of August. Auditorium officials responded favorably to the newspaper's suggestion that the trial "would cause the eyes of the nation to focus on Chattanooga for a week or more."²³ Neal acknowledged and expressed appreciation for Chattanooga's interest in the trial, but stated that there was no local prejudice to justify such a move from Dayton.²⁴

Immediately, the *Daily Times* enacted its second plan. On the morning of May 19, the headlines of the *Daily Times* read, "Evolution Taught at Central High." The story told of Hamilton County Central High biology teacher Steger Hunt who was to be prosecuted for teaching the Darwinian theory of evolution. Four of Hunt's students were going to be subpoenaed to testify against him.²⁵

In one short day, the move to upstage Dayton was aborted. The headline in the following day's paper, "Drop Evolution Charge Against Central High; Dayton Turns Tables,"²⁶ told of the reversal that had taken place. The article accompanying the headline explained the involvement of the *Daily Times* in an attempt to set up a test case of the evolution law which would preempt the Dayton Scopes case. The Chattanooga paper had gotten a verbal agreement from J. E.

Walker, superintendent of schools in Hamilton County, to allow a test case involving a Hamilton County teacher. Central High principal Stacey Nelson was encouraged to have himself arrested for being directly responsible for evolutionary teachings in his school. When Nelson refused to comply with the scheme, and no other volunteer could be found, the biology teacher at Central High, Steger Hunt, was to be prosecuted by a Chattanooga surgeon, Dr. Lyle M. West. The case fell apart when Hunt protested the action.²⁷

Needless to say, the citizens of Dayton were not happy. The wily leaders of Dayton called a mass meeting to protest Chattanooga's unfriendly trial takeover attempts. With "few of the city's adult population absent,"²⁸ resolutions denouncing the actions were passed, the *Daily Times* was flayed, and threats were made regarding taking Dayton's trade to Knoxville and away from Chattanooga.

Society News Perspective

The Scopes Trial prompted a great deal of social activity in Dayton and the surrounding area of southeast Tennessee. In Dayton the social events were typical of small-town America. The newspapers reported a well-attended meal to honor Clarence Darrow,²⁹ a mass reception for William Jennings Bryan at the train station,³⁰ an "old-fashioned barbecue" for visitors to Dayton,³¹ as well as numerous meetings of and events sponsored by Dayton's Progressive Club,³² the organization that orchestrated the activities surrounding the Scopes showdown.

In Chattanooga, many of the civic organizations took full advantage of the trial and its related themes. In the weeks prior to the big event, the Exchange Club staged a debate on evolution,³³ George Rappleyea, the trial instigator, spoke at the Engineer's Club,³⁴ Verne Prater, a *Daily Times* humorist and reporter who covered the trial, addressed the Kiwanis Club,³⁵ the Literary Society of the Edmonson Business School debated evolution,³⁶ the Scopes Trial lawyers were honored at a banquet sponsored by the Exchange Club,³⁷ and a "monkey party" was held at the ladies' E.E.E. Club.³⁸

Fashions and styles were not neglected in the coverage of the trial. As Mrs. Darrow, Mrs. Bryan, and other wives of prominent trial figures sat in the hot, Rhea County courtroom, reporters were conducting fashion checks. The "black and printed crepe frock" and "violet hat ornamented with three bands of fluted silk in dresden shades" which adorned Mrs. Darrow caught at least one reporter's eye.³⁹ During the second weekend of the trial, the society page of *The Chattanooga News* even honored Mrs. Darrow with a picture which showcased her fashionability.⁴⁰

Local History Perspective

Curiosity regarding Dayton and its home county spread beyond the events and issues of 1925. As Dayton's notoriety mounted, the newspapers responded to what must have been an insatiable thirst for historical knowledge related to "Monkeyville, U.S.A."

The first major historical article was written by Nellie Kenyon, a Dayton resident and staff correspondent for *The Chattanooga News*. Based upon an interview with N. D. Reed, a 76-year-old former mayor and former postmaster of Dayton, the article recounted Reed's renaming Smith's Cross Roads, Dayton's original name, to Dayton. Reed explained that his motive was simply to shorten the community's name. The name "Dayton" just happened to be a short name that no other community in the state had chosen.⁴¹ That same story was told in a later *Daily Times* article. A major discrepancy did appear in the two accounts. The *Daily Times* article called Reed "a staunch evolutionist" and even headlined the article with the title, "Dayton Named by Evolutionist."⁴² Nellie Kenyon quoted Reed as saying, "My real view is that it is best to hold to the Bible rather than claim kin with monkeys."⁴³

Two of the earlier historical articles which appeared in the Chattanooga papers were supplied from distant sources such as the Associated Press and the *New York Times*. The Associated Press article explained that 234 acres of the site where Dayton later developed had been purchased in 1879 by W. G. Gardenhire with money obtained from selling two Fiji Island natives to P. T. Barnum. When, in 1880, a new railroad was built through the area, Gardenhire was able to influence the move of Rhea County's seat of government from nearby Washington to his new town. Factories and businesses sprang up as a result of local coal mining endeavors.⁴⁴ "The Evolution Arena at Dayton," a *New York Times* reprinted article which appeared in the *Chattanooga Sunday Times*, provided a historical survey of Dayton's past, a geographical description of the surrounding area, as well as a demographical overview of Dayton's people and its economy.⁴⁵

Nellie Kenyon wrote an entertaining story of Hiwassee Island, an island just south of Dayton in the Tennessee River which reportedly was once the home of Sam Houston and the Cherokee tribe with which he lived.⁴⁶ On some of the days of the week in which the trial began, *The Chattanooga News* included a special section of the paper dedicated to Dayton. Several articles of historical interest appeared in those sections. One such article was a rather extensive account of the history of Rhea County.⁴⁷

Ideological Perspective

While the evolution-creation issue did, at times, take a back seat to other trial-related interests, it would be a mistake to assume that it was a forgotten matter. The local newspapers of that period clearly document the fervor of ideological controversy that surrounded the trial.

Local pastors kept the debate alive through their sermons. Monday editions of the Chattanooga papers reported the sermon topics of the previous day. Sermon topics ranged from "Jesus Was Evolutionist"⁴⁸ to more orthodox themes which warned believers not to "mix in 'vain babblings' of evolution."⁴⁹ As early as May 17 one prominent Baptist pastor in Chattanooga was forced to resign because of his views on evolution.⁵⁰ Later in the summer, a similar occurrence would take place in Dayton, involving Pastor Howard Gale Byrd of the Methodist Episcopal Church. On a weekend during the trial, Byrd made the mistake of inviting a New York Unitarian to address his Dayton congregation on the topic of evolution. Byrd's pastorate in Dayton was finished!⁵¹

Editorials in the *Chattanooga Daily Times* voiced views which clearly reflected pro-evolutionary sentiments.⁵² The *Daily Times* did not attempt to disguise its disdain for William Jennings Bryan and his political and religious views.⁵³ Even at the time of Bryan's death, this paper did not succumb to the mood of compromising sentimentalism. In an editorial which respectfully delineated Bryan's accomplishments, the article began with the reminder that the *Chattanooga Times* and William Jennings Bryan "did not have very much in common."⁵⁴ The editor of *The Chattanooga News* strongly opposed the Butler Act⁵⁵ and endorsed evolution.⁵⁶ Editorials in this Chattanooga afternoon paper, however, were much more favorable toward Bryan⁵⁷ than were those in the *Daily Times* and *Sunday Times*.

Both major newspapers did attempt to present both sides of the debate. The *Daily Times* ran an article titled, "Menace of Evolution,"⁵⁸ a forum article venting "What Times Readers Say About Evolution,"⁵⁹ and, during the trial, a daily series of unedited articles by fundamentalist Baptist pastor Rev. T. W. Calloway.⁶⁰ *The Chattanooga News* ran William Jennings Bryan's "Weekly Bible Talks" as a regular feature, before, during, and even after the trial and Bryan's death.⁶¹ In order to provide an evolutionary perspective, a series of articles on evolution, written by medical doctor Percy W. Cobb of Cleveland, Tennessee, were published in *The Chattanooga News* during the period of great controversy.⁶²

The newspapers often announced public presentations in which evolution and Biblical creation were contrasted, harmonized, or debated. "Where Religion and Evolution Meet" was the advertised lecture given on May 24 at the First Christian Church.⁶³ A much publicized debate was planned for July 5 at the Little Theater, under the auspices of Rev. T. W. Calloway of Chattanooga's Baptist Tabernacle. T. T. Martin of the Antievolution League of America represented the fundamentalist position and opposing spokespersons were welcomed to defend the theory of evolution.⁶⁵ The highly acclaimed film *Evolution*, produced by the American Museum of Natural History, was shown at Chattanooga's Memorial Auditorium during the time of the trial.⁶⁶

Evolution was truly the talk of the town, even eclipsing the discussion of the sweltering heat wave.⁶⁷ A July 20 edition of the *Daily Times* printed some of the "piles upon piles of written words" which they received from readers. The editor stated that "fundamentalists, evolutionists, scientists, Christians, pagans, ministers of God and scoffers; agnostics, infidels, the learned and the illiterate are represented by the communicants who seek space in the *Times* to express their opinions."⁶⁸

Local Economy Perspective

The driving, economic motive behind the Scopes Trial was difficult to disguise. Dayton's Progressive Club responded quickly to provide "the proper amount of publicity beforehand."⁶⁹ At a May 22 meeting this group of civic entrepreneurs "voted to raise a \$5,000 advertising fund and appointed committees to expend it in telling the world about Dayton."⁷⁰ Nick Givens, former Daytonian who worked for the *Chattanooga Times*, was named to the committee. At some point Givens apparently was contracted to serve as a paid publicity agent.⁷¹

In spite of the glitter of gold in their eyes, Dayton's movers and shakers flatly denied that the Scopes case had been started for purposes of economic gain.⁷² Scopes himself, later revealed the true motives. Scopes acknowledged that Rappleyea "convinced the businessmen of the town that the publicity of such a case would put Dayton on the map and benefit business."⁷³ Descriptors such as "the great advertising scheme"⁷⁴ and "a fight against obscurity"⁷⁵ were not inaccurate.

The business scheme at Dayton paid off elsewhere. Advertising in Chattanooga's papers exploited the controversy. "E-V-O-L-U-T-I-O-N" leaped at the reader from one advertisement headline. Then an awkward transition regarding the evolution of men's clothing led the reader into a routine sales pitch.⁷⁶ An "Evolutionized Credit" ad took advantage of the same effect.⁷⁷ "Evolution or No Evolution," one ad, adorned with monkey pictures, proclaimed, "Drink Chickamauga Coffee." Chickamauga Coffee was boasted to be "created perfect from the beginning."⁷⁸ One article, "Evolution in Kitchen," described a Chattanooga furniture store window display which traced the evolution of kitchen furnishings from earlier times to the present.⁷⁹

On the day prior to the trial's opening session, *The Chattanooga News* shrewdly included a multiple-page section dedicated to Dayton. The section included pictures of Dayton's buildings, stories of historical interest, plenty of advertisements of Dayton's businesses, and articles regarding some of the more prominent Daytonian advertisers. "Be sure and see the table where the big discussion started," prominently introduced the advertisement for F. E. Robinson's drug store.⁸⁰

Citizens of Dayton were no less enterprising. A cleverly written and illustrated booklet, *Why Dayton of All Places?* was published and marketed by F. E. Robinson and W. E. Morgan.⁸¹ In addition to the many hot dog vendors (as many as four stands within 30-40 feet)⁸² on the streets, Robinson's drug store was boasted to have sold daily 1280 lemonades, 769 chocolate drinks, 6 gallons of coca cola syrup made into drinks, and 15-20 gallons of ice cream.⁸³ On the

day the trial began, *The Chattanooga News*, under the picture of two young ladies holding Dayton pennants decorated with monkeys, announced that the merchants of Dayton "are ready for the trial of John Thomas Scopes."⁸⁴

Encouraged by the firstfruits of the trial's publicity, the town fathers at Dayton envisioned masses of visitors descending upon their little burg.⁸⁵ They prepared themselves to entertain 5,000 people in homes and resorts in and around Dayton.⁸⁶ Later, the number of expected visitors grew to "at least" 10,000.⁸⁷ The number eventually swelled to 20,000.⁸⁸ Plans were made to open churches and the high school cafeteria to feed the multitude.⁸⁹ Loud speaker-equipped overflow seating was prepared in the high school auditorium and on the lawn outside.⁹⁰ At one point plans were negotiated to build an auditorium which would seat thousands of people.⁹¹

On the morning following the trial's opening session, local newspaper readers were confronted with this grim reality: "Dayton Disappointed: Huge Crowds, Expected for Weeks, Fail to Put in Appearance."⁹² This front page story in the *Daily Times* was a harbinger of the economic disappointments to come. Nellie Kenyon reported that there were maybe 900 people in the courtroom and not more than 1000 outside on the first day of the trial. Most of these were from Rhea County. The streets were not particularly crowded.⁹³ The buildings to accommodate overflow crowds were never opened.⁹⁴ Subsequent reports such as this one were even more dismal: "Crowds Falling Off Instead of Increasing—Vendors Deeply Disappointed."⁹⁵ Hot dog vendors began to go out of business before the trial was half over.⁹⁶

At the trial's conclusion, one citizen remarked, "it didn't do Dayton much good."⁹⁷ Another person commented, "We didn't get the kind of publicity that we expected out of it."⁹⁸ Robinson's drug store and the Aqua Hotel, which housed many of the guests, were the only two Dayton businesses which reaped apparent short-term profits.⁹⁹ Perhaps these early evaluations were too short-sighted. In retrospect, seventy-five years of tourism and curiosity seeking have produced some economic benefits. The attraction of thousands of students from all over the United States and foreign countries to Bryan College, the institution founded in 1930 to perpetuate the legacy of William Jennings Bryan, has undoubtedly contributed substantially to the economic life of Dayton, Tennessee.

Human Interest Perspective

An event as unusual as the Scopes Trial was sure to generate a spate of human interest stories. Readers of the Chattanooga dailies were regularly treated with delightful accounts of intriguing tales spawned by the events in Dayton. The clean-up and other preparation activities in Dayton were newsworthy to the local papers. "Expecting Company, Dayton to Clean Up," was the subject of an early June front page story.¹⁰⁰ Preparations for an aviation field made the news.¹⁰¹ Plans to park 1500 automobiles,¹⁰² a courtroom facelift,¹⁰³ the building of tourist camps, a temporary hospital, and a bandstand¹⁰⁴ were just some of the many pre-trial improvements which captured the attention of reporters.

Joe Mendi, a \$100,000 chimpanzee, made a visit to the site of the trial. Accompanied by trainer Miss Gertrude Baumen, Joe was sent on a mission by his wealthy New York owner, a Mr. Cruikahank, to serve as evidence for the defense. The humanness of Joe Mendi was supposed to vindicate John Scopes and Darwin's theory.¹⁰⁵ A wealthy Oklahoma antievolutionist, Joe Miller, sent "Big Joe Viens," a chimpanzee weighing 115 pounds, and "Little Joe Viens," an odd little monkey, to Dayton as evidence for the prosecution. The two trainers who came with the animals, were prepared to witness to the nonhuman, beastlike nature of the curious creatures.¹⁰⁶ Reporters, who scrounged the streets of Dayton for news, skillfully turned these events into entertaining newspaper stories.

George Rappleyea, the original prosecutor in the Scopes case who later abandoned that role in order to be a loyal sympathizer with the defense, was virtually a walking human interest story. A fist fight between Rappleyea and Thurlow Reed, a local barber, attracted the interest of reporters in the early stages of the unfolding saga.¹⁰⁷ The newspapers reported on his new car which would be "known as the official car for the defense attorneys."¹⁰⁸ A few weeks later, even his arrest for speeding was deemed worthy of news article.¹⁰⁹ Prior to the trial, Rappleyea quit his position as Sunday school superintendent at the Five Points Methodist Episcopal Church, just outside of Dayton, in a flurry of controversy related to his evolutionary views.¹¹⁰ Just a few days later he claimed that his pastor, the Dayton pastor later to be ousted from his church, was responsible for his views.¹¹¹

City leaders expected a crime wave to accompany the multitude of visitors to Dayton. A request was made to Governor Austin Peay for national guard troops to assist in the policing effort. The editor of the *Daily Times* echoed the plea.¹¹² The governor did not yield to the request. Consequently, police officers from Chattanooga were employed to help maintain control. With a tinge of disappointment, one reporter noted that the services of the police "were not required, except to be ornamental." Late into the trial it was reported that Sheriff "Blutch" Harris was "the boredest man around the Rhea county court and the evolution trial." Not a single visitor was arrested as of July 19.¹¹⁴

A Rev. Carl Mathis, from Gadsden, Alabama, was not so fortunate as the visitors who made it to Dayton. The preacher from Gadsden hired a taxi to drive him, allegedly, to the aid of Mr. Bryan in Dayton. He was jailed on Monday in Chattanooga for giving the taxi driver a bad check. All doubts of his lunacy vanished when he removed his clothing in the jail cell, lectured against evolution and the ills of modern government,¹¹⁵ and then proclaimed himself to be a convert to evolution on Tuesday evening.¹¹⁶ Mathis did nothing to assist Bryan or Scopes, but he did provide one more human interest story.

Conclusions

In some ways the Scopes Trial perspectives reflected in the local newspapers were probably not much different from those of distant papers. To some degree, each of the seven aforementioned themes must have found its way into the major newspapers in Chicago, New York, Atlanta, Baltimore, and elsewhere.

The acquaintance of the local reporters and local readers with some of the principals in the trial and the setting in which it occurred, however, would surely heighten interest in themes other than the ideological one. Readers in the counties surrounding Dayton had more to gain or lose in the trial, than did their fellow Americans in distant cities and states.

Analysis of the daily newspaper coverage in the Dayton area supports two unmistakable conclusions. First, the sheer amount of space which Scopes Trial news occupied in the Chattanooga daily papers stands as a testimony to the reporters' bonanza which it provided in the summer of 1925. Second, for Dayton and its neighbors, the Scopes Trial was more than a legal event. It was a social, political, historical, religious-scientific, economic, and human interest event as well.

Notes

1. *Chattanooga Daily Times*, 4 May 1925: 1

2. *The Chattanooga News*, 29 June 1925: 1-2, It is interesting to remember that this textbook was perfectly legal in Tennessee when the 1924-25 school year began. Only after April 21, 1925, just a few weeks before the end of the school year, did the textbook become illegal.

3. Ibid., 2.
4. *The Chattanooga News*, 16 May 1925: 1.
5. *The Chattanooga News*, 1 June 1925: 2.
6. *The Dayton Herald*, 23 July 1925: 1.
7. Donald F. Brod, "The Scopes Trial: A Look at the Press Coverage after Forty Years," *Journalism Quarterly* 42 (Spring 1965): 219-226, compared the press coverage of the Scopes Trial to that of the social conflicts of the 1960s. Edward Caudill, "The Roots of Bias. An Empiricist Press and Coverage of the Scopes Trial," *Journalism Monographs* 114 (July 1989), examined the *New York Times*, the *Chicago Tribune*, the *Atlanta Constitution*, the *Louisville Courier*, the *London Times*, as well as some other miscellaneous newspapers and magazines. Caudill concluded that an empiricist bias did exist in the coverage of those newspapers and magazines; observation, an empirical method held by the newspapers, clashed with revelation, an essential epistemological source of fundamentalism. Marvin N. Olasky, "When World Views Collide: Journalists and the Great Monkey Trial," *American Journalism* 4.3 (1987): 133-146, cites material from eight major U.S. newspapers that covered the trial. Olasky argues that journalists from these papers had a strong pro-evolutionary bias. Jeffrey St. John, "The Significance of the News Coverage of the Scopes Trial," an address at the annual meeting of the Chamber of Commerce, Bryan College, Dayton, Tennessee, 20 March 1979, stated that the newspapers were largely concerned with discrediting Bryan and fundamentalism.
8. Tennessee State Archives contains no copies of *The Dayton Herald* for the summer of 1925. The *Herald News*, the successor to the newspaper that existed in 1925, has no copies of these editions; neither do the public libraries of Chattanooga and Dayton. The collection of papers of Sue Hicks, a local Dayton attorney who was a member of the prosecution, contains numerous newspapers from the period prior to, during, and after the trial. Only one copy, a July 23, 1925, edition, of *The Dayton Herald* appears in the Hicks collection. The paper was a simple four-page newspaper with no more than half of its space designated for stories. Much of this space was dedicated to trivial community social events.
9. Reprinted from the *Wall Street Journal* in the *Chattanooga Daily Times*, 20 July 1925: 12.
10. *Hamilton County Herald*, 26 June 1925: 1.
11. *Chattanooga News*, 19 May 1925: 4.
12. *The Chattanooga Sunday Times*, 19 July 1925: 24.
13. *The Chattanooga News*, 11 July 1925: 4.
14. *Chattanooga Daily Times*, 26 June 1925: 4.
15. *Chattanooga Sunday Times*, 19 July 1925: 24.
16. *The Chattanooga News*, 11 July 1925: 1.
17. *Chattanooga Daily Times*, 19 May 1925: 1.
18. *Chattanooga Daily Times*, 3 July 1925: 1.
19. *Chattanooga Daily Times*, 4 July 1925: 1.
20. *The Chattanooga News*, 6 July 1925: 1.
21. *Chattanooga Daily Times*, 4 July 1925: 1.
22. *The Chattanooga News*, 18 May 1925: 5.
23. Ibid.
24. *Chattanooga Daily Times*, 19 May 1925: 5.
25. *Chattanooga Daily Times*, 19 May 1925: 1.
26. *Chattanooga Daily Times*, 20 May 1925: 1.
27. *Chattanooga Daily Times*, 20 May 1925: 1.
28. *Chattanooga Daily Times*, 20 May 1925: 1.
29. *Chattanooga Daily Times*, 23 June 1925: 1.
30. *Chattanooga Daily Times*, 8 July 1925: 1.
31. *Chattanooga Daily Times*, 9 July 1925: 13.
32. *Chattanooga Daily Times*, 22 May 1925: 11; 3 June 1925: 1.
33. *The Chattanooga News*, 25 May 1925: 5.
34. *The Chattanooga News*, 1 June 1925: 1.
35. *The Chattanooga News*, 2 June 1925: 8.
36. *The Chattanooga News*, 6 June 1925: 5.
37. *The Chattanooga News*, 1 July 1925: 5.
38. *Chattanooga Daily Times*, 4 July 1925: 6.
39. *Chattanooga Daily Times*, 14 July 1925: 2.
40. *The Chattanooga News*, 18 July 1925: 7-B.
41. *The Chattanooga News*, 3 June 1925: 2.
42. *Chattanooga Daily Times*, 10 July 1925: 12.
43. *The Chattanooga News*, 3 June 1925: 2.

44. *The Chattanooga News*, 25 June 1925: 2.
45. *Chattanooga Sunday Times*, 5 July 1925: 33.
46. *The Chattanooga News*, 6 July 1925: 12.
47. *The Chattanooga News*, 9 July 1925: 3-B.
48. *Chattanooga Daily Times*, 1 June 1925: 7.
49. *Chattanooga Daily Times*, 22 June 1925: 12.
50. *Chattanooga Daily Times*, 18 May 1925: 5.
51. *Chattanooga Daily Times*, 13 July 1925: 1.
52. *Chattanooga Daily Times*, 16 May; 21 May; 8 July; 12 July; 22 July 1925.
53. *Chattanooga Daily Times*, 16 May 1925: 4.
54. *Chattanooga Daily Times*, 27 July 1925: 4.
55. *The Chattanooga News*, 18 July 1925: 4.
56. *The Chattanooga News*, 21 May 1925: 4.
57. *The Chattanooga News*, 21, 22, 29, 31 July 1925.
58. *Chattanooga Daily Times*, 25 May 1925: 3.
59. *Chattanooga Sunday Times*, 21 June 1925: 34.
60. *Chattanooga Daily Times*, 14 July 1925: 2. An editorial footnote to this article by Rev. Calloway explains the agreement the newspaper had made with him.
61. *The Chattanooga News*, 3 July 1925: 14. This series appeared in Friday editions and was, in effect, a running commentary on Biblical passages.
62. *The Chattanooga News*, 6 July 1925: 6-B. This sample article was the ninth in the series.
63. *The Chattanooga News*, 23 May 1925: 10-B.
64. *Chattanooga Daily Times*, 19 June 1925: 1.
65. *Chattanooga Daily Times*, 25 June 1925: 11.
66. *Chattanooga Daily Times*, 16 July 1925: 11.
67. *The Chattanooga News*, 2 July 1925: 7.
68. *Chattanooga Daily Times*, 20 July 1925: 12.
69. *Chattanooga Daily Times*, 22 May 1925: 11.
70. *Chattanooga Daily Times*, 23 May 1925: 15.
71. *Ibid.* A later article in *The Chattanooga News* (22 June 1925: 1) indicates that the money never came in, the committee was dissolved, and a breach of contract lawsuit was filed (but later dropped) by Nick Givens.
72. *Ibid.*
73. John T. Scopes and James Presley, *Center of the Storm: Memoirs of John T. Scopes* (New York: Holt, Rinehart, and Winston, 1967) 61.
74. *Hamilton County Herald*, 26 June 1925: 1.
75. *Chattanooga Sunday Times*, 24 May 1925: 9.
76. *The Chattanooga News*, 21 May 1925: 13.
77. *The Chattanooga News*, 21 July 1925: 8-B.
78. *The Chattanooga News*, 8 July 1925: 10.
79. *The Chattanooga News*, 23 July 1925: 5.
80. *The Chattanooga News*, 9 July 1925: 2-B.
81. *The Chattanooga News*, 22 June 1925: 1.
82. *Chattanooga Daily Times*, 22 July 1925: 2.
83. *Chattanooga Daily Times*, July 18, 1925, 11.
84. *The Chattanooga News*, 10 July 1925: 11.
85. *The Chattanooga News*, 4 June 1925: 2. As early as 4 June 1925, 700-800 reservations had been made front out-of-town people. It is not surprising that the projected crowd numbers would be so large.
86. *Chattanooga Daily Times*, 4 June 1925: 1.
87. *The Chattanooga News*, 18 June 1925: 11.
88. *Chattanooga Daily Times*, 14 July 1925: 2.
89. *The Chattanooga News*, 18 June 1925: 11.
90. *Chattanooga Sunday Times*, 12 July 1925: 2.
91. *Chattanooga Daily Times*, 26 June 1925: 2. The uncertainty of the trial's location, created by attempts to move it from Dayton, resulted in the cancellation of the auditorium.
92. *Chattanooga Daily Times*, 11 July 1925: 1.
93. *The Chattanooga News*, 11 July 1925: 5.
94. *The Chattanooga News*, 10 July 1925: 1-B.
95. *The Chattanooga News*, 15 July 1925: 11.
96. *Chattanooga Daily Times*, 15 July 1925: 10.

97. *The Chattanooga News*, 22 July 1925: 1.
98. Ibid.
99. *The Chattanooga News*, 10 July 1925: 1.
100. *Chattanooga Daily Times*, 3 June 1925: 1.
101. *Chattanooga Daily Times*, 6 June 1925: 3.
102. *Chattanooga Daily Times*, 3 June 1925: 1.
103. *Chattanooga Daily Times*, 23 June 1925: 1.
104. *The Chattanooga News*, 6 July 1925: 1.
105. *Chattanooga Daily Times*, 14 July 1925: 3.
106. *Chattanooga Daily News*, 14 July 1925: 16.
107. *The Chattanooga News*, 19 May 1925: 1. In a personal interview with Ferrell Reed, the barber's son, it was revealed later that this fight was staged to stimulate support in Dayton for the trial. See Warren Allem, "Backgrounds of the Scopes Trial at Dayton," thesis, Univ. of Tennessee. Knoxville, 1259, 67-69.
108. *Chattanooga Daily Times*, 21 June 1925: 1.
109. *The Chattanooga News*, 18 July 1925: 13.
110. *Chattanooga Daily Times*, 29 June 1925: 1.
111. *Chattanooga Daily Times*, 2 July 1925: 1.
112. *Chattanooga Daily Times*, 27 June 1925: 4.
113. *Chattanooga Daily Times*, 11 July 1925: 2.
114. *Chattanooga Daily Times*, 19 July 1925: 2.
115. *Chattanooga Daily Times*, 14 July 1925: 16. The Reverend's name was spelled "Mattess" in this article. The following day's article gave what was probably the correct spelling.
116. *Chattanooga Daily Times*, 15 July 1925: 10.

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"The Monkey Special," by cartoonist W. Norman Ritchie of the *Boston Post*, illustrates the field day cartoonists had with the issues, personalities and even the community of Dayton as they attempted to put their own spin on the Scopes Trial.

The Science Played Again

By Kurt P. Wise

Kurt P. Wise is an Associate Professor of Science and Director of the Center for Origins Research and Education at Bryan College. As a Harvard-educated paleontologist, he has focused his field studies on creation research papers in the areas of biology, geology and paleontology. A firm believer that a teacher of science should actually do science, Dr Wise spends much of his time at sites such as Mt. Saint Helens, Death Valley, and the Grand Canyon. Being a popular speaker, he accepts many invitations to lecture and present papers at professional meetings, conferences, and churches.

The Scopes “Monkey” Trial of 1925 is widely understood to be a monumental clash of worldviews. It has been variously pictured as (among other things) a clash of evolution versus creation, of enlightenment versus ignorance, and of truth versus myth. The activity on the witness stand is probably pictured by many as having been a string of professors of science versus a few backwoods preachers. Actually, the trial’s purpose was to determine whether John T. Scopes taught evolution in the classroom. Since scientific and theological evidence would be irrelevant for this purpose, what little scientific testimony was presented at the trial was inadmissible as evidence.

The scientific evidence which was read into the transcript for anticipated use in a higher court does characterize the evolutionary science of 1925 rather well. However, if the trial were replayed now, seventy-five years later, how would evolutionary science differ? If the trial were replayed now, how would the creationary science differ? This essay is intended to offer a brief description of how science in general, and creation and evolution in particular, have changed through the last three quarters of a century. More particularly, six fields of science will be here briefly reviewed for this purpose—astronomy, geochronology, geology, origin of life, biology and anthropology.

Astronomy

In 1925 the general consensus in the scientific community was that the universe was infinitely old—that it had had no beginning.¹ This teaching had been popular since at least the time of Aristotle, who argued that the universe was the way it was because of logic—and could be no other way. So strong, in fact, was the predisposition towards an infinitely old universe that Albert Einstein missed out on a spectacular prediction. Just a couple of years after the introduction of his general theory of relativity in 1915, Einstein recognized that it held necessary consequences for the very structure and history of the universe. If his theory were true, then the balance of the known forces of the universe left the universe either expanding or contracting—not static. However, for the universe to be infinitely old it must be static or at least capable of remaining static indefinitely. In contrast, an expanding or contracting universe had to have had a beginning. So resistant was he to a beginning for the universe that Einstein introduced a force which would balance the already known forces in such a way to allow the universe to be static. With the introduction of this force, Einstein missed the opportunity to predict an expanding universe, observationally suggested about a decade later. Late in life he would also be forced to recant his suggestion when the proposed force was found to have had an effective measured strength of zero!

Even as the Scopes Trial went on, astronomy was changing. In the 1910’s and 1920’s astronomers observed that the visible light from distant objects was shifted toward the red end of the spectrum—a phenomenon called “redshift.” By 1929 Edwin Hubble realized that the amount of redshift observed for a galaxy seemed to be directly related to how far away it was. This suggested to Hubble that the universe was expanding, allowing him to make the claim in lieu

of Einstein. Since expansion cannot occur forever from an infinite past, an expanding universe suggests that the universe had a beginning. When it was thought that the universe was of infinite age, there was no beginning to explain, but with a beginning an explanation was required. So it was that in the decades after the Scopes Trial, various theories for the universe's origin arose. In 1948, George Gamow proposed a theory which would become known as the Big Bang Theory. It made predictions about radiation from outer space which were not measurable until they were accidentally discovered in 1963. This spectacular prediction placed the Big Bang Theory in preferred position among the evolutionary theories for the origin of the universe. The Big Bang Theory retains this status even today.

On the other hand, the last decade of the twentieth century has been hard on the Big Bang Theory. Measurements of the COBE satellite in the early 1990's demonstrated that the radiation coming from outer space is smoother than expected by the conventional Big Bang Theory. Measurements of the Hubble telescope in the late 1990's suggested that the universe is expanding faster than expected by the Big Bang Theory—so much so that there appear to be stars older than the universe within which they are found! In the face of such observations, the Big Bang Theory has been subject to repeated ad hoc revision, lending serious question as to its adequacy as a theory of cosmogenesis. Being only one of (perhaps) many possible theories derivable from Einstein's equations, the weakness of the theory may suggest that another solution is the true one.

At the same time, a universe with a beginning leads to the kind of conclusions which probably led Einstein to reject a finite universe in the first place. The reasoning begins with the law of causation.² With the exception of some events which occur in the realm of the very small, all events in our observation seem to have causes. Even in the realm of the very small (quantum mechanics), the unseen causes can be understood to be just that—unobserved but not absent. Combined with the arguments of some philosophers that there can be no such thing as an uncaused event, we can reasonably conclude that every event must have a cause. Since, then, the beginning of the universe would be an event in the history of the universe, it would follow that the beginning of the universe itself had a cause.

The universe, however, is thought to contain all space, time, and matter. This would mean that the cause of the beginning of the universe could not have been limited by either space or time or matter. A cause of the universe unlimited by space would be both beyond and throughout all of space—thus both immanent and transcendent. A cause unlimited by time would be both eternal and unchanging. A cause unlimited by matter would be immaterial (non-physical). The Arabians of the Fifteenth Century classified causes into personal and impersonal causes. Whereas in our experience impersonal causes have to predate the event, personal causes (e.g., wills) do not seem to have to predate the event (e.g., a decision of a will). Since nothing can "predate" the beginning of time, the universe's beginning would then seem to have been due to a personal rather than an impersonal cause. The universe would then be due to the decision of a personal will.

Further constraints on the cause of the universe come from the beauty, symmetry, and simplicity principles which have proved to be so useful in science. When presented with competing theories, the theories which produce a more beautiful and/or more symmetric and/or more simple description of the real world are chosen. These theories are not only more intrinsically desirable to aesthetic-loving humans, but they tend to work rather well. This suggests that the universe actually might be both beautiful and consistently simple. This in turn suggests a single cause for the universe's beginning—a cause which somehow is intrinsically beautiful.

Even more constraints on the universe's cause have been discovered since the Scopes

Trial. First of all, beginning in the 1940's it began to be observed that there were a number of curious "coincidences" in the universe.³ At first, similar huge numbers were found in diverse phenomena otherwise thought to be unrelated. Then characteristics of the universe were found to be precisely what they should be to permit life to exist and/or evolve (e.g., the electromagnetic force neither too weak nor too strong to allow the formation of molecules; the existence of regularities—"natural laws"—which would allow life to exist and persist). Finally, characteristics of the universe were recognized which were not just essential for life, but very convenient for humans (e.g., the human language of mathematics being able to characterize the universe; the universe being understandable). These characteristics suggest to even non-creationists that the universe looks as if it has been designed for man. Assuming the truth of this "anthropic principle" has even led to the prediction and discovery of new characteristics of the universe. The many observations of the anthropic principle suggest that the cause of the universe designed the universe for man.

In the 1970's chaos theory formed the foundation of a new field of physics.⁴ Chaos theory had its origin in weather prediction. It has long been observed that prediction of weather is fraught with difficulty. Although most, if not all, meteorologists feel that weather patterns are events determined by (ultimately) simple causes, we cannot seem to predict the outcomes of these simple processes. It is generally thought that there are simply too many such causes acting in symphony to permit us to understand all of them. Since we cannot know all the causes we cannot predict their cumulative effect. Since the 70's many other physical phenomena have been identified as chaotic—unpredictable in the future because of incomplete knowledge of determining causes in the present and/or past. This includes even the orbits of planets about the sun and may ultimately be found to include most, if not all, physical processes. If this is true, and if it is true that the universe was designed for man, then it must be that the cause would have to know enough about the universe not only to predict the universe will be suitable for human life in the next second and year, but also that it would still be optimal this many millennia after the origin of the universe. Given the number of chaotic processes in the universe, this would require knowledge of every aspect of every physical process—i.e., all-knowledge (omniscience). For all these aspects actually to have been set in the precise mode necessary to fit those requirements would require the cause to have the power to place every part of the universe in its precise position—i.e., all-power (omnipotence).

It should now be apparent why a non-theist such as Albert Einstein should resist the idea of a universe with a beginning. The nature of the universe and the nature of its regularities suggest that the universe was the result of the decision of the will of a single, beautiful, eternal, unchanging, immanent, non-physical, omnipotent, omniscient, personal being who had man in mind. Inconsistent with any other God-view, this is quite compatible with the God of the Bible. This would seem to constitute rather substantial testimony against non-theistic evolution and for theistic creation.

Geochronology

In 1925 few of the methods now used to calculate the age of the earth were in place. The minimum age of the earth was being calculated by estimating how much time it takes various processes to produce the features seen on the earth. As processes were inferred which required more and more time, the minimum age of the earth increased. By 1925 the scientific community generally thought that the earth was well over 100 million years old. Radiometric dating using uranium was only a couple decades old by the time of the Scopes Trial and is nowhere mentioned in its expert testimony, but by the time of the trial uranium dating seemed to be confirming the

suspicion that the earth was at least hundreds of millions of years old.

Following the Scopes Trial there would be many developments in geochronology. First of all, other radiometric dating methods would be developed which would become even more popular than uranium dating—such methods as potassium-argon, rubidium-strontium, and carbon-14 dating. The generally accepted age of the earth in modern science (4.6 billion years) was settled upon by radiometric dating by the late 1960's.⁵

The radiometric dating methods, however, have not been without their difficulties. Carbon-14 dating, for example, has been problematic from its introduction. Willard Libby's classic 1952 text on carbon-14⁶ mentions a couple of problems which persist to this day. The best test of the reliability of carbon-14 dating was (and is) the dating of the rings of living trees. Bristlecone Pine trees are thought to be the oldest living things on earth, some being upwards or perhaps in excess of 4,000 years old. Carbon-14 dates on Bristlecone Pine rings correspond to the ring count back to about the time of Solomon. Before 1000-1500 B.C., however, carbon-14 dates begin to diverge from the ring counts. No adequate explanation has ever been found for this problem and no completely trustworthy way exists to check the accuracy of older carbon-14 dates. In spite of this, carbon-14 was (and still is) relied upon heavily for dating things which were once living. Another problem Libby noted was that there is less carbon-14 in the atmosphere than would be expected if carbon-14 had been produced for 30,000 years or more. Again, even to this day, other than suggesting that the earth is less than 30,000 years old, no adequate explanation for this has been made.

The remainder of the radiometric methods date rocks and not the fossils themselves. Of these, the potassium-argon method involves the element with the shortest half-life. It is thus the best method for objects thought to be just tens of millions of years old or less. In this process, radioactive potassium decays into argon. Since argon is a gas, it is generally thought that hot (liquid) lava would release all of it, resetting the potassium-argon age to zero. However, in the last couple decades it has become increasingly evident that lava does not release all its argon. Recent lavas hold onto enough argon to produce a range of potassium-argon dates from tens of thousands of years to millions of years.⁷ The average potassium-argon date for recent lavas is about 300,000 years. Not only is it unclear why lavas do not release their argon, it is also unclear how then properly to evaluate potassium argon dates.

One of the most popular radiometric dating methods is by utilizing what are called "isochrons." It is generally thought that isochrons are virtually impossible to produce in any other way than by the decay of radioactive elements over very long periods of time. However, recently a remarkable isochron has been reported⁸ which involves rocks and soils of many different ages, and thus most assuredly was not produced by radiometric decay. Even though no one understands how such an isochron can be formed, it does put into question identifying isochrons as age indicators. One final difficulty with radiometric dating is that multiple methods applied to the very same rock produce systematically different ages.⁹ If radiometric years correspond to real years all these methods should produce the same result. It is thus not entirely clear how to interpret radiometric ages.

At the same time there are indications that things may not be as old as is conventionally thought. There is, for example, much less helium in the atmosphere than would be expected if billions of years of radiometric decay had actually occurred.¹⁰ Also, salt is being added to the ocean so much faster than it is being extracted that the oceans cannot be more than 100 million years old.¹¹ Finally, the observed decay of the magnetic field of the earth suggests that the magnetic field is less than 10,000 years old.¹² Since some of the earth's oldest rocks have evidence of having been formed in a magnetic field, this would suggest that some of the earth's oldest rocks

are less than 10,000 years old (and not billions of years old).

Between the difficulties with conventional dating methods and the evidence that the earth may be only thousands of years old, testimony is available against conventional dating and for a much younger earth

Geology

In 1925, geology was understood to be non-catastrophic. Following the pattern popularized in Charles Lyell's 1830 book *Principles of Geology*, virtually all geologic activity was understood to be gradual and slow. Geologic history was thus inferred to have occurred over many millions of years at a steady gradual rate. At the same time the continents were understood to be permanently fixed features of the earth's surface. Both of these assumptions would be challenged in the decades following the Scopes Trial.

The theory of continental drift was presented by Alfred Wagner, a meteorologist.¹³ Although first introduced more than a decade before the trial, it took Wagner's ideas quite a while to become popular—especially in the United States. In the 1960's, plate tectonics theory was born, being the combination of the recently suggested sea floor spreading theory and the much older continental drift theory. Between 1966 and 1968 there was a rapid and nearly universal acceptance of plate tectonics theory among U.S. geologists.

At the same time as the debate on continental drift was waging in academic circles, geologic gradualism was also under siege. J. Harlan Bretz began arguing in the 1920's that the Channeled Scablands region of eastern Washington was formed catastrophically in a huge regional flood.¹⁴ Bretz would struggle for decades to get his ideas accepted, but he was running against what was perceived to be one of the most important assumptions of geology. It would be the 1970's before the idea of local and regional catastrophes would be accepted in mainstream geology. It was a half century after he proposed the flood origin of the scablands before Bretz was publically honored for his contribution to geology. With the acceptance of occasional local catastrophes (neocatastrophism), there began a gradual shift to more and more catastrophism. In 1980, for example, Louis Alvarez would suggest that an asteroid hit the earth to wipe out the dinosaurs.¹⁵ There would then begin a transition from geologic gradualism to local catastrophism (neocatastrophism), to an increasing acceptance of global catastrophism in the last two decades of the twentieth century.

The global catastrophism implied in the Biblical account of Noah's Flood is much less antithetical to conventional geology than it was at the time of the Scopes Trial. Furthermore, an acceleration of the rate of plate movement in plate tectonics theory,¹⁶ explains a lot of observational data—including the seismic tomography evidence for mantle-wide circulation, the seismic tomography evidence of cool material at the base of the mantle, and the patchiness of the magnetic anomalies on the sea floor. Truly, seventy-five years after the Scopes Trial there is much more testimony available against conventional geology and for a short, catastrophic history for the earth.

Origin of Life

In 1925 the scientific community thought that life arose from non-life through a series of chemical reactions over an extended period of time. The original life was thought to be a single cell, most probably a bacterium. This theory, broadly outlined by Charles Darwin decades before, is called abiogenesis theory.

In 1953 a graduate student by the name of Stanley L. Miller would test the hypothesis of his professor, Harold C. Urey, that life arose from gases in the atmosphere. He constructed

an experimental apparatus to determine if he could produce life. Miller's experiment produced a few organic molecules, including a couple amino acids essential for life—supposedly under conditions simulating the conditions on the early earth. Miller's experiment would be followed by many more, using a variety of initial conditions, sources of energy, etc., each time with similar results. The robustness of the experiments, combined with evidence of some of life's simple organic molecules in interstellar gas clouds and on meteorites coming from interplanetary space suggests that spontaneous creation of molecules essential for life is rather easy. Further verification seemed to come from paleontology. In 1954 the first valid fossils were reported in Precambrian rocks. Those fossils, and all similarly-aged fossils found thereafter, are in fact bacteria.

With all the positive results of the origin of life experiments and fossil research, a variety of theoretical, experimental, and observational problems would arise with abiogenesis theory.¹⁷ Although thermodynamic calculations are very complicated and hard to track, the creation of complex organic molecules from inorganic ingredients seems to be prohibited in theory. At the same time, of the many consecutive chemical steps in abiogenesis theory, origin of life experiments have never been capable of simulating more than one such step in a single simulation. Inorganic compounds can be used to make the simplest organic molecules (the monomers), but a chemically inert organic "goo" prevents the reactions from proceeding to the next step. The monomers have to be produced and purified before they can be combined to make the required polymers. But then, once again, the experiment ceases with the production of chemically inert organic "goo." As many origin of life experiments as have been attempted, the failure to produce complex organic molecules seems to falsify the claim that life can be produced in this manner. In fact, they seem to indicate that progress towards the origin of life seems possible only with the introduction of external intelligence into the natural system. Finally, although the earliest fossils are bacteria, they have now been found in the oldest rocks on earth capable of preserving fossils, and in rather large variety. According to current geological theory, the early earth was subject to the same heavy meteoritic bombardment as the moon. In fact, by conventional dating, the earliest fossils date from before the end of that bombardment. It seems impossible that abiogenesis could have occurred on earth before the end of the life-obliterating bombardment period of earth history. One way or another, the amount of time thought necessary for abiogenesis does not seem to have been available.

Yet another problem with abiogenesis has come with what we have learned about DNA, a molecule generally thought foundational to all of life. Watson and Crick's 1953 paper elaborated its basic structure and catalized an explosion of DNA research over subsequent decades. DNA is made up of what appears to be a random arrangement of four different nucleotides. It has been found that triplets of nucleotides code for the 21 biologically important amino acids in the same sort of way that Morse Code elements code for the 26 letters of the English alphabet. The triplets arranged in particular sequences produce the thousands of genes on the DNA molecule in a way similar to how the letters of an alphabet code for the thousands of words of a language. Hierarchical coding is not the only similarity between DNA and human language. The redundancy of triplets for given amino acids suggests the kind of interchangeability of words found in language. Identical genes in unrelated organisms (interpreted as "lateral gene transport" in conventional biology) and the interchangeability of organisms in communities suggests modularity at multiple levels—the kind of emergent modularity as is found in language. The existence of genes which turn other genes on or off or change their rate of transcription as well as genes which initiate cascades of other genes is similar to the existence of modifying words and particular word sequences characteristic of the linguistic structure of language. The transcription and translation machinery in a cell which allows the information of the DNA to be made into useful materials is

reminiscent of the interpreter necessary to extract information from language.

Finally, the machinery which seems to be in place to allow genes to be moved from one organism to another is reminiscent of the listener necessary to receive information in the transfer of language information. There are thus many reasons to believe that the structure of DNA is in fact a complex language at least as complex as the language of humans. Since our experience indicates that language is the result of a communicating intelligence, it would seem that the language structure of life suggests that biological life as we know it is the result of a non-biological communicating intelligence.

Seventy-five years after the Scopes Trial there seems to be available testimony against an evolutionary origin of life and for a creationary origin of life.

Biology

In 1925 biologists were pretty much agreed that all life was descendant from a single-celled ancestor through descent with modification (biological evolution). In his 1859 publication *The Origin of Species*, Darwin presented many evidences in support of this hypothesis. First of all, populations of organisms have been observed to change through time. Offspring are different from adults and breeding (artificial selection) produces new varieties. In a similar way Darwin proposed that the natural world produces new varieties (by what Darwin called "natural selection"). When projected over time those new varieties continue to change until they became new species, and eventually new genera, families, orders, etc. Darwin argued that such a theory of common descent explains similar structures (homologies) and similar stages of development in different organisms as well as similar organisms in geographical proximity, groups of organisms unique to particular regions of the planet (e.g., marsupials in Australia) and the existence of organisms which look intermediate between other organisms. He also thought the evolution of life which involves the creation of new species which gradually diverge and further branch was similar to the branching of limbs on a tree—the entire process being a "tree of life." Darwin felt that this would explain the fact that species can be naturally grouped within genera, which can in turn be grouped within families, and so on—the hierarchal classification of organisms. He also felt that it would explain the general fact that the fossil record seems more and more different the farther back in time you go. Finally, because it was a process which did not have purpose and design behind it, it would also explain imperfections among living organisms—both sub-optimal designs and vestigial organs (those which no longer have a function, but which once did in an ancestor).

By 1925 Darwin's theory had received further verification. Natural selection had been experimentally simulated, and similarities in blood proteins had verified the relationships hypothesized from the similarities in development and adult structures. In addition, the arguments of embryological recapitulation had become very popular—where the development of an individual organism from its conception to its adult form seems to mirror the evolution of that species from its single-celled ancestor. In addition, evidence in the fossil record had supplied a morphological intermediate (Archaeopteryx) between birds and the reptiles. Finally, there were several examples of fossil series showing a step-by-step transition from an ancestral animal to its present form. Examples included the celebrated horse series as well as the elephant, the camel, and rhinoceros series.

Since 1925 other evidences would arise to confirm evolutionary theory. Mammal-like reptiles are found in the fossil record between the mammals and the reptiles and intermediate fossils have been found between the whales and their presumed land ancestors and amphibians and their presumed fish ancestors. Further bird fossils have also been found between Archaeop-

teryx and the more modern birds. The molecular revolution in biology has also added many other molecular studies to those known in 1925. These studies provide similar patterns of similarity as are found in adult and developmental structures.

At the same time, there has been much in the latter part of the twentieth century which is not as pleasant for evolutionary biologists. In general, the evidences for evolution are apparent for the above evidences only when one examines the evidence briefly or generally. The most general glance at embryology for example, suggests similarities between an individual's development from conception and its hypothesized evolutionary ancestry, but a more detailed examination reveals that the similarities break down.¹⁸ In like manner, the similarities indicated by organismal structures are generally, but not specifically, the same as those indicated by embryological stages and molecules. In fact, different organismal structures show different similarities, as do different molecules. This is so much the case that no evolutionary tree can be hypothesized based upon similarities in one set of structures or molecules without suggesting with that same hypothesis that more than one other structure and/or molecule had to evolve more than once. Furthermore, structures originally thought homologous have been systematically found to be produced by radically different developmental pathways and/or non-homologous genetic codes. At the same time, structures believed to be independently derived have been found to be coded by homologous genes. All this means that the hierarchal classification of organisms only suits the natural order of organisms in the most superficial manner.¹⁹

It took until 1972 for the "trade secret of paleontology" to be admitted.²⁰ Even after it was initially admitted, it has taken decades to be accepted by the larger community. The secret is that the fossil record lacks inter-specific transitional forms and morphological change in species expected by evolution. This is true even among the species of fossil series. The species evidence from which Stephen Jay Gould built his theory of punctuated equilibria is also true of taxa above the level of species—of orders, classes, and phyla. The transitional forms which were expected between species should be even more common between higher groups and yet are only very rarely found. This is true even though our understanding of the fossil record has increased over the last three quarters of a century. Although the vast majority of the fossils are shallow marine invertebrates, there are no claimed intermediates in the invertebrate record. Even the claimed transitions are problematic. The mammal-like reptiles, for example, show widespread parallel evolution—at least seven different families of mammal-like reptiles simultaneously and independently becoming more mammal-like side by side.

In evolutionary theory, large changes in organisms can only be produced through many evolutionary transitions. Along the way many species would be produced. In evolutionary theory, the great differences (disparity) among organisms are expected only after great numbers (diversity) of organisms are produced. However, the fossil record shows high disparity before high diversity.²¹ It also turns out that the major groups of organisms do not generally occur in the order expected by evolutionary theory. When there is reason to believe that some organism appeared in the fossil record earlier than it is first found, a "ghost lineage" is introduced to connect the oldest evidence of the group with the presumed first appearance. The lack of correspondence between the presumed evolutionary order of first appearance and the fossil record of first appearances has resulted in a very large number of ghost lineages.

Furthermore, if the fossils are as old as is conventionally thought, then an extremely small percentage of the species which have ever lived are known as fossils—i.e., the fossil record of species is extremely incomplete. However, a large percentage of organisms living today are known as fossils, which suggests that the fossil record of species is much more complete than is assumed in evolutionary biology. Disparity before diversity, non-evolutionary order of first ap-

pearance of major groups, high species preservability, as well as abrupt appearance and stasis of organisms and communities all pose serious challenges to evolutionary theory. At the same time, these observations would all be expected if an earth already filled with organisms was rather suddenly overcome by an event which brought about both the systematic demise and burial of the organisms involved.

If conventional evolutionary theory is correct, present species diverged from one another millions of years ago and genera tens of millions of years ago. If such divergence times are correct, then species should have had sufficient time to develop genetic incompatibility and for unused genetic material to have completely degraded so that it no longer codes for anything. The widespread existence of inter-specific and inter-generic hybridization as well as the vestigial organs which are known are evidence for life on this planet being very young. Recovery studies such as the study of organisms arriving on the new volcanic island Surtsey in the 1960's and returning to the devastation around Mt. Saint Helens after 1980, have indicated that organisms invade even remote areas rather quickly. This makes it much easier to believe that Australia has remained free of placentals for thousands of years rather than the tens of millions suggested in conventional theory.

It seems that even in biology, testimony could be brought against the evolutionary hypothesis and for a creationary hypothesis for the origin of life's variety.

Humans

In 1925 the official evolutionary theory on the origin of man was that humans evolved over millions of years of time from a primate ancestor of the Great Apes. The scientists introduced into the Scopes Trial transcript fossil evidence for this in the form of Cro-Magnon Man, Neanderthal Man, Java Man, Piltdown Man, and the then-recently-discovered fossil from South Africa as progressively older and more ape-like fossil ancestors of modern man. To this can be added the many physical similarities between modern apes and humans. Newborn chimpanzees are especially similar to modern humans—having a similar relative brain size, facial features, distribution of hair, and the skull directly atop the spinal column.

Since 1925, more evidence seems to verify the evolutionary origin of humans. First of all, there has been a very high similarity (approximately 98%) observed between the DNA structure of humans and the DNA of chimpanzees. Secondly, some apes and chimps have been taught sign language—evidence that human language could have been evolved from pre-human ancestors.

Also since 1925 more fossils have been found and further study has clarified much which was not well understood then. Cro-Magnon and Neanderthal men have been placed in the human species (*Homo sapiens*)—the latter being a human form unique and confined to Europe. Java Man has become the first of numerous specimens of the species *Homo erectus*—a form with a brain capacity overlapping with the lower range of modern humans and non-head anatomy virtually indistinguishable from modern humans. Piltdown Man was found to be a hoax, and the South African specimen found in late 1924 would be the first of many australopithecines. The most famous member of this latter group of organisms is "Lucy." The australopithecines have brain capacities overlapping those of the great apes, and the long arms and curved hand and foot bones most similar to the arboreal apes. In the end it seems possible to classify all the fossils as either human or ape and not certainly as transitional between the two.²²

It is not clear what the high similarity between human and chimp DNA actually means. We still don't know enough about the DNA to know what portions of the DNA are the same and what portions are not. With billions of nucleotides in human DNA a two percent similarity could mean tens of millions of nucleotide differences. This is not only not a small difference, it

seems like too large a number of differences to be accounted for in the divergence time between humans and apes—even at several millions of years. At the same time there has been the observation that most of the human DNA—perhaps over 95%—is apparently not used in the development and maintenance of a human. It is called “junk DNA.” If the similarity between human and chimpanzee DNA is focused on the unused portion and the dissimilarity is focused on the used portion, then a rather large percentage of the utilized DNA is actually different and not the same.

As for the language evidence, the difference between humans and apes is actually very large. Whereas human children retain nearly one hundred percent of what they learn, apes retain a low percentage of what they learn in the short term, and they lose it entirely in the long term. Furthermore, human children ask questions about what things are and what things mean, and they disagree with their teachers—things apes never do. As Noam Chomski has indicated, there is remarkable coordination of mental and physical abilities which must arise to make language possible. Chomski seemed to believe that this was not possible in any stepwise mode—that it had to occur all at once or it would never be selected for.

The evidence traditionally understood to be evidence of the evolution of humans can thus be understood to be more in favor of humans being separately derived from apes. Other evidence exists to suggest that humans have not been in existence for as long as evolutionary theory suggests. Mutations, for example, are being added to the human genetic material every generation. If humans have been around for millions of years (and then derived from other organisms which themselves had accumulated mutations for hundreds of millions of years) then humans should have an enormous genetic load (accumulated negative mutations). The genetic load of humans appears to be far less than would be expected in evolutionary theory—possibly only what one would expect in thousands of years of human history. Ever since census records have been kept humans have been increasing in number. At the current rate of population increase it would only take thousands of years to get to the present population size from even two people—it certainly does not take millions of years. Furthermore, the total number of human deaths which would be expected in the evolutionary model would be much greater than would be expected if humans have only been around for thousands of years. The number of human burials actually found is more consistent with a recent origin of humans than with a much older origin.

Seventy-five years after the Scopes Trial testimony would be available against the evolution and for the special creation of humans.

Creation Science

In 1925 despite his attempts, William Jennings Bryan was not able to get anyone to accept his invitation to be an expert witness for creation. Also, under cross examination, when asked what experts agreed with him, Bryan could only mention one person by name (George McCready Price) and only refer to another person who had actually died several years before. The one Bryan did mention, Price, was not even formally trained in science.

Since 1925 much has happened in creation science. Not only have creationists gone on to receive advanced degrees in the sciences, but they have created professional scientific creationist organizations, journals and conferences. The number of trained creation scientists has been increasing through time. The first flood geologist, for example, to receive a Ph.D. seems to have been Steven A. Austin in 1979.²³ Although there are probably still thousands of evolutionary scientists for every creation scientist, there are nonetheless a number of creation scientist experts available now.

Conclusion

If the Scopes Trial were replayed today and scientific testimony were accepted as evidence, it would certainly be substantially different than it was in 1925. First of all, creation experts could be found. Second, although the evidence for evolution would be stronger than it was in 1925, the evidence which appears to be against it would also be greater. Third, it would be possible to make an argument for the creation of the universe, the earth, and its contained life and humans. Finally, it would be possible to make an argument for the recent origin of those things created. It is not possible to rout the evolutionary position—if for no other reason than the sheer number of evolutionary scientists there are in the world—but it would be possible to present a reasonable creationary position

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Clarence Seward Darrow

Clarence Darrow—Legendary Lawyer of American History

By Elmer Gertz

Elmer Gertz was qualified to write about Clarence Darrow since he had a close personal and professional relationship, with him until Darrow's death in 1938 and since he was his heir-apparent in that he gained parole for Nathan Leopold, whom Darrow had saved from capital punishment for the thrill slaying of Bobby Franks. During his 75-year Chicago legal career, Gertz wrote eighteen books, was a law professor, and a social activist champion of civil rights, defended Jack Ruby (assassin of Lee Harvey Oswald) and fought for Henry Miller's right to publish Tropic of Cancer in spite of the accusations of obscenity against it. Gertz also found time to correspond with such prominent figures as Frank Harris, Winston Churchill, Leon Trotsky, George Bernard Shaw, Carl Sandburg, Arthur Miller, and Harry Truman, who sent him more than 100 letters. As a book lover, Elmer Gertz was active in The Caxton Club of Chicago and wrote for its journal. The following essay is reprinted with permission from the Caxtonian, 6.3 (March 1998): 1, 4, 7.

It is likely that America has produced more lawyers than the combined total of all the rest of the world. We have had many thousands of lawyers, some famous for a season, such as Louis Nizer and Alan Dershowitz; some for a single case, such as F. Lee Bailey and Johnnie Cochran. But only one American lawyer has had enduring fame for decades: he is Clarence Darrow. His name is known to almost all Americans, even if they cannot spell out the details of his long life.

I may be one of the few surviving lawyers who knew Darrow personally. I sometimes proclaim with pride that I am a footnote to his illustrious career. I inherited, so to speak, his most famous case, the remains of the Nathan Leopold and Richard Loeb case. Leopold told me that Darrow gave him his existence when he saved him from hanging for the killing of Bobbie Franks in the famous 1924 case, but that I gave him his life when I got him out of prison in 1958. It is, indeed, something memorable to be part of the Darrow tradition.

The defining event in Darrow's life came early in his career. He had been corporation counsel of the City of Chicago, almost by happenstance, and then attorney for the powerful Chicago and Northwestern Railroad. He appeared to be well on his way to position and influence in his adopted city, a real feat for an almost unschooled boy from the small town of Kinsman, Ohio.

A railroad strike arose out of the wretched conditions in the company town of Pullman. The strikers were led by Eugene Victor Debs, at the beginning of what was to be a great career of championing the underprivileged. In 1894, after satisfying himself of the rightness of the strikers' cause, Darrow resigned as the railroad attorney and became the lawyer for Debs and the strikers. That meant the end of Darrow's conventional career as a respectable advocate of big interests and the beginning of his truly fabulous career as an advocate of labor and many lost causes.

The low point of Darrow's life came at the time of the fatal bombing of the *Los Angeles Times* Building. Indeed, it almost ended his legal career as well as nearly resulted in his imprisonment. The publisher of the *Los Angeles Times* was a notorious enemy of organized labor. Some felt that his activities led to the disastrous bombing of his building. The two McNamara brothers were charged with the bombing and placed on trial for their lives. Organized labor insisted upon Darrow's undertaking their defense. Darrow was reluctant to undergo the task. He became convinced that his clients would be convicted and pay with their lives. To Darrow, the implacable foe of the death penalty, this was unbearable. He persuaded his clients to plead guilty in exchange for a penalty less than death. Notwithstanding this triumph for the forces of law and order, they pursued Darrow himself savagely. He was charged with jury tampering and, after two trials, narrowly escaped conviction. His career was in shambles. Organized labor deserted him for good. Although he had done so much for them, they no longer hired him. Other clients, too, deserted him. It was not until years later and the case of the boy-killers of Bobbie Franks in 1924

that his reputation was restored.

Darrow was unalterably opposed to capital punishment, whoever the criminal, whatever the details of the crime. He would represent anyone and everyone facing death, irrespective of the ability to pay a fee. Only one of his clients was executed—Pendergast, a zealot who was the assassin of Chicago Mayor Carter Harrison. It was Darrow's first murder case, and it arose in a period much like that of the Haymarket case, when there was an insatiable lust for the blood of killers. The case taught Darrow to be on guard against prejudice of all kinds, exemplified best in his tireless defense of the Sweets, blacks who killed when they were beset by a white mob when they moved into a white neighborhood in Detroit. Unlike some, Darrow believed that even the rich, Leopold and Loeb, for examples, were entitled to valiant defenses.

Darrow said that he fought against the sin and never the sinner. This was brilliantly illustrated in the memorable play by John Logan, *Never the Sinner*. I have special reason for cherishing this prizewinning play because it was based upon my huge collection of material about Darrow and Leopold, now housed at Northwestern University.

Another play and subsequently a motion picture, *Inherit the Wind*, was based upon Darrow's battle against the anti-evolution law in Tennessee. This illustrates Darrow's hatred of all religious bigotry. Darrow had admired William Jennings Bryan because of his defense of the little man in politics. But when Bryan, the attorney for the anti-evolutionists in Dayton, Tennessee, became a zealot in championing the Bible from cover to cover, Darrow was relentless in pursuit of him. His examination of Bryan as to his religious beliefs was so devastating that some believed Bryan's death five days after the Scopes trial was caused by it.

One of Darrow's great attributes as a trial lawyer was his skill in destroying hostile witnesses. Another great skill was in the selection of jurors who were likely to become sympathetic to his clients. But undoubtedly, his greatest ability was in closing arguments, whether in his famous defense of himself when he was charged with jury tampering or in his closing appeal in the Leopold-Loeb case. His closing arguments always had a great theme. In the case of the Franks killers, it was the trackless jungle through which all youth travel.

Why did Darrow have such a hold on people during his lifetime and afterward? I learned part of the answer for myself. Just before the celebration of the Darrow centennial in 1957, a Parsee, who was the manager of the Singer Sewing Machine Co. in Bombay, inquired of *Time* magazine with whom he might correspond regarding the American lawyer for whom he had developed a tremendous admiration. *Time* referred him to me. Until his death, some years later, we communicated regularly. While sailing on the *Rotterdam*, I met the talented actor, Richard Dreyfus. I accompanied him while he was wheeling his baby around the deck. He then told me that, in his youth, he had memorized all of Darrow's closing arguments. Our friends, Arthur and Lila Weinberg, were not lawyers, but they devoted their lives to writing books about Darrow.

I could give many other instances of Darrow's appeal to young and old, lawyers and laymen. Was it the apparent simplicity of the man or the actual complexities in his make-up? Most people think of the courtroom figure, fingering his galluses or expressing views to delight or outrage conventional people. He did not have a booming voice, except when it was required in a case.

All of Darrow's principal cases were very widely publicized. The staid *New Republic* published an article at the time of the Leopold-Loeb case declaring that more was written about that case than any other case in history. There is a lengthy book listing many but not all of the references to Darrow. I don't know of any other attorney who is the subject of such bibliography.

Every one of Darrow's cases—the Haywood-Moyer-Pettibone case, the *Los Angeles*

Times bombing, the Debs and Pullman strike, the Leopold-Loeb case, the Scopes trial, the Sweet case, the Massie case, and many others—were each in turn the “case of the century.” And why not? When you have a client like Nathan Leopold, a young Jew of very good family, of great wealth, with an IQ at 60 points above the genius level, with a knowledge of 27 languages, professional skill as an ornithologist, and much else, who, with his friend, kidnaps and kills a young boy, how can it be anything but a sensational case? How can you explain such a person? Darrow tried to understand him, as did I years later, but neither of us truly reached understanding. Perhaps he was, as Eleanor Roosevelt said to me, a “sick boy who grew well.”

A number of great actors, among them Orson Welles, Spencer Tracy, Henry Fonda, Paul Muni, and Melvyn Douglas, have portrayed Darrow in motion pictures, plays, documentaries, and one-man shows. All are different in detail but convey the unforgettable impression of an apparently artless and simple man who was vastly gifted in speech and overwhelming in motivation and heart. Lawyers seem to have an itch for writing, chiefly about their own cases. Darrow had exciting cases to write about, and he did so in books, pamphlets, and innumerable articles in a vast variety of magazines and newspapers. And he spoke endlessly. He loved to debate his favorite themes before live audiences anywhere. I heard him many times.

Unlike most lawyer-writers, Darrow's interests went far beyond the law. He loved literature, particularly poetry. He wove poetry into his closing arguments. When I was assembling Darrow material in connection with the observance of his centennial, I learned forcibly the ambivalent relations between Darrow and his one-time law partner, Edgar Lee Masters, author of *The Spoon River Anthology*. Masters wrote that Bryan and Darrow were the two worst demagogues. But I found two poems that Masters had written about Darrow. In one of them he lauded Darrow as if he were a saint; in the other he treated him as if he were a scamp. We probably learn more about Masters than Darrow in these performances.

Darrow had much better relations with other authors—H.G. Wells, for one, and A.E. Housman, for another. Darrow had quoted from Housman's *A Shropshire Lad* in his classic summation in the Leopold-Loeb case. Housman later claimed, half-seriously, that he had helped save the lives of two young murderers. In the Leopold parole hearing, I read the very passage from the Housman poem that Darrow had recited in the 1924 criminal trial—from the very book that belonged to Darrow. At the time of the parole hearing, Leopold gave me the letters that he had received from Darrow during his imprisonment. They were all handwritten and very encouraging, telling him that one day he would be freed and have the opportunity to make something of himself. I myself received several letters from Darrow, generally in his own hand. I recall particularly one long letter in which the great lawyer analyzed the legal aspects of Frank Harris' *My Life and Loves* with much particularity. I recall, too, one letter that Darrow wrote to me when he was about to embark on a trip to Europe. He wanted to know the address of Harris. After Harris' death, I learned, to my astonishment, that Darrow did not admire Harris, despite his efforts to assist him. I am sure that Darrow had no great love for others whom he defended.

Darrow died on March 13, 1938, exactly twenty years before the release of his famous client, Nathan Leopold. As I led Leopold from Stateville Prison, I was much aware of the striking coincidence. Darrow was cremated and his ashes spread from what is now known as the Darrow Bridge in Chicago's Jackson Park.

Each year a group of us assemble at the bridge to pay homage to him; then we meet at the Museum of Science and Industry to hear talks on themes that would have interested the great lawyer, such as capital punishment. Half-seriously, he had said that he would reappear at the site if there was anything to the claims of spiritualists, which he strongly doubted. He would have

been greatly pleased that sixty years after his death he was still being remembered. He might have said that there are better things to be done than honoring the ashes of any man. There are battles to be fought for the causes in which he believed.

Chronology of Books by Clarence Darrow

"The Great Defender" 1857-1938

A Persian Pearl and Other Essays, C.L. Rickets, 1902 and 1904.

Resist Not Evil, C.H. Kerr, 1902.

Farmington (novel), A.C. McClurg & Co., 1904.

An Eye for an Eye (novel), Fox, Duffield, 1905.

The Story of My Life, Charles Scribner's Sons, 1932 and 1934.

Verdicts Out of Court. Edited with an introduction by Arthur and Lila Weinberg, Quadrangle Books, 1963.

(A collection of Darrow's essays, debates, and lectures demonstrating Darrow's wide-ranging interests and intellect).

—Compiled by Russell Fee

Editors note: In July 1996, Caxtonian Russell Fee, an attorney and a Darrow collector, and his father, guests for the annual reenactment of the Scopes trial in Dayton, were selected as jurors for the trial that year. "The script for the reenactment," Fee says, "is better than *Inherit the Wind*—it is historically more accurate and it has greater natural humor."



William Jennings Bryan addresses the court during the Scopes Trial. Seated next to Bryan is Ben McKenzie. Notice the "standing room only" crowd. Estimates of the number of spectators vary, but range up to 800, twice the seating capacity of the courtroom.

William Jennings Bryan's Last Campaign

Scientists and their acolytes are partly to blame for the lengthy and bitter struggle against creationism

By Stephen Jay Gould

*For many years Stephen Jay Gould has been one of the foremost spokesmen for evolutionary theory and has received numerous invitations to lecture and represent the case for his position. As Louis Agassiz Professor of Geology at Harvard, Dr. Gould teaches biology, history of science and geology. His many books—distinguished by such lively titles as *Hen's Teeth and Horse's Toes* and *The Panda's Thumb*—invariably are best-sellers. He is the recipient of many awards for his work, such as the MacArthur Fellowship and *Discover* magazine's Scientist of the Year. Dr. Gould participated in the McLean v. Arkansas evolution trial, and it is a tribute to his broad-mindedness that he made an effort to study the life of Bryan, read what Bryan read, visited Dayton, Tennessee, and tried to understand a man with whom he so strongly disagreed. The following essay first appeared in *Natural History* 96 (Nov 1987): 16-26, and it is reprinted with permission from *Natural History*, copyright by the American Museum of Natural History, 1987.*

I have several reasons for choosing to celebrate our legal victory over “creation science” by trying to understand with sympathy the man who forged this long and painful episode in American history—William Jennings Bryan. In June 1987, the Supreme Court voided the last creationist statute by a decisive 7-2 vote, and then wrote their decision in a manner so clear, so strong, and so general that even the most ardent fundamentalists must admit the defeat of their legislative strategy against evolution. In so doing, the Court ended William Jennings Bryan's last campaign, the cause that he began just after World War I as his final legacy, and the battle that took both his glory and his life in Dayton, Tennessee, when, humiliated by Clarence Darrow, he died just a few days after the Scopes trial in 1925.

My reasons range across the domain of Bryan's own character. I could invoke rhetorical and epigrammatic expressions, the kind that Bryan, as America's greatest orator, laced so abundantly into his speeches—Churchill's motto for World War II, for example: “In victory: Magnanimity.” But I know that my main reason is personal, even folksy, the kind of one-to-one motivation that Bryan, in his persona as the Great Commoner, would have applauded. Two years ago, a colleague sent me an ancient tape of Bryan's voice. I expected to hear the pious and polished shoutings of an old stump master, all snake oil and orotund sophistry. Instead, I heard the most uncanny and friendly sweetness, high pitched, direct, and apparently sincere. Surely this man was more than what H.L. Mencken, reporting the Scopes trial for the *Baltimore Sun*, called “a tinpot Pope in the Coca-Cola belt.”

I wanted to understand a man who could speak with such warmth, yet talk such Yahoo nonsense about evolution. I wanted, above all, to resolve a paradox that has always cried out for some answer rooted in Bryan's psyche. How could this man, America's greatest populist reformer, become, late in life, her arch reactionary?

For it was Bryan who, just one year beyond the minimum age of thirty-five, won the Democratic presidential nomination in 1896 with his populist rallying cry for abolition of the gold standard: “You shall not press down upon the brow of labor this crown of thorns. You shall not crucify mankind upon a cross of gold.” Bryan who ran twice more, and lost in noble campaigns for reform, particularly for Philippine independence and against American imperialism in the election of 1900. Bryan, the pacifist who resigned as Wilson's secretary of state because he sought a more rigid neutrality in the First World War. Bryan who stood at the forefront of most progressive victories in his time: woman suffrage, the direct election of senators, the graduated income tax (no one loves it, but can you think of a fairer way?). How could this man have then joined forces with the cult of biblical literalism in an effort to purge religion of all liberality, and to stifle the same free thought that he had advocated in so many other contexts?

This paradox still intrudes upon us because Bryan forged a living legacy, not merely an issue for the mists and niceties of history. For without Bryan, there never would have been antievolution

laws, never a Scopes trial, never a resurgence in our day, never a decade of frustration and essays for yours truly, never a Supreme Court decision to end it all. Every one of Bryan's progressive triumphs would have occurred without him. He fought mightily and helped powerfully, but women would be voting today and we would be paying income tax if he had never been born. But the legislative attempt to curb evolution was his baby, and he pursued it with all his legendary demoniac fury. No one else in the ill-organized fundamentalist movement had the inclination, and surely no one else had the legal skill or political clout. Ironically, fundamentalist legislation against evolution is the only truly distinctive and enduring brand that Bryan placed upon American history. It was Bryan's movement that finally went down in flames last June in Washington.

The paradox of shifting allegiance is a recurring theme in literature about Bryan. His biography in the *Encyclopaedia Britannica* holds that the Scopes trial "proved to be inconsistent with many progressive causes he had championed for so long." One prominent biographer located his own motivation in trying to discover "what had transformed Bryan from a crusader for social and economic reform to a champion of anachronistic rural evangelism, cheap moral panaceas, and Florida real estate" (L.W. Levine, *Defender of the Faith: William Jennings Bryan. the Last Decade*. New York: Oxford University Press, 1965).

Two major resolutions have been proposed. The first, clearly the majority view, holds that Bryan's last battle was inconsistent with, even a nullification of, all the populist campaigning that had gone before. Whoever said that a man must maintain an unchanging ideology throughout adulthood; and what tale of human psychology is more familiar than the transition from crusading firebrand to diehard reactionary. Most biographies treat the Scopes trial as an inconsistent embarrassment, a sad and unsettling end. The title to the last chapter of almost every book about Bryan features the word "retreat" or "decline."

The minority view, gaining ground in recent biographies and clearly correct in my judgment, holds that Bryan never transformed or retreated, and that he viewed his last battle against evolution as an extension of the populist thinking that had inspired his life's work (in addition to Levine, cited previously, see Paolo E. Coletta, *William Jennings Bryan, vol. 3., Political Puritan*, University of Nebraska Press, 1969; and W.H. Smith, *The Social and Religious Thought of William Jennings Bryan*, Coronado Press, 1975).

Bryan always insisted that his campaign against evolution meshed with his other struggles. I believe that we should take him at his word. He once told a cartoonist how to depict the harmony of his life's work: "if you would be entirely accurate you should represent me as using a double-barreled shotgun, firing one barrel at the elephant as he tries to enter the treasury and another at Darwinism—the monkey—as he tries to enter the schoolroom." And he said to the Presbyterian General Assembly in 1923: "There has not been a reform for 25 years that I did not support. And I am now engaged in the biggest reform of my life. I am trying to save the Christian Church from those who are trying to destroy her faith."

But how can a move to ban the teaching of evolution in public schools be deemed progressive? How did Bryan link his previous efforts to this new strategy? The answers lie in the history of Bryan's changing attitudes toward evolution.

Bryan had passed through a period of skepticism in college. (According to one story, more than slightly embroidered no doubt, he wrote to Robert O. Ingersoll for ammunition but, upon receiving only a pat reply from his secretary, reverted immediately to orthodoxy.) Still, though he never supported evolution, he did not place opposition high on his agenda; in fact, he evinced a positive generosity and pluralism toward Darwin. In "The Prince of Peace," a speech that ranked second only to the "Cross of Gold" for popularity and frequency of repetition, Bryan said:

I do not carry the doctrine of evolution as far as some do; I am not yet convinced that man is a lineal descendant of the lower animals. I do not mean to find fault with you if you want to accept the theory.... While I do not accept the Darwinian theory I shall

not quarrel with you about it.

(Bryan, who certainly got around, first delivered this speech in 1904, and described it in his collected writings as “a lecture delivered at many Chautauqua and religious gatherings in America, also in Canada, Mexico, Tokyo, Manila, Bombay, Cairo, and Jerusalem.”)

He persisted in this attitude of *laissez faire* until World War I, when a series of events and conclusions prompted his transition from toleration to a burning zeal for expurgation. His arguments did not form a logical sequence, and were dead wrong in key particulars; but who can doubt the passion of his feelings?

We must acknowledge, before explicating the reasons for Bryan's shift, that he was no intellectual. Please don't misconstrue this statement. I am not trying to snipe from the depth of Harvard elitism, but to understand. Bryan's dearest friends said as much. Bryan used his first-rate mind in ways that are intensely puzzling to trained scholars—and we cannot grasp his reasons without mentioning this point. The “Prince of Peace” displays a profound ignorance in places, as when Bryan defended the idea of miracles by stating that we continually break the law of gravity: “Do we not suspend or overcome the law of gravitation every day? Every time we move a foot or lift a weight we temporarily overcome one of the most universal of natural laws and yet the world is not disturbed.” (Since Bryan gave this address hundreds of times, I assume that people tried to explain to him the difference between laws and events or reminded him that without gravity, our raised foot would go off into space. I must conclude that he didn't care because the line had a certain rhetorical oomph.) He also explicitly defended the suppression of understanding in the service of moral good:

If you ask me if I understand everything in the Bible, I answer no, but if we will try to live up to what we do understand, we will be kept so busy doing good that we will not have time to worry about the passages which we do not understand.

This attitude continually puzzled his friends and provided fodder for his enemies. One detractor wrote: “By much talking and little thinking his mentality ran dry.” To the same effect, but with kindness, a friend and supporter wrote that Bryan was “almost unable to think in the sense in which you and I use that word. Vague ideas floated through his mind but did not unite to form any system or crystallize into a definite practical position.”

Bryan's longstanding approach to evolution rested upon a threefold error. First, he made the common mistake of confusing the fact of evolution with the Darwinian explanation of its mechanism. He then misinterpreted natural selection as a martial theory of survival by battle and destruction of enemies. Finally, he made the logical error of arguing that Darwinism implied the moral virtuousness of such deathly struggle. He wrote in the “Prince of Peace” (1904):

The Darwinian theory represents man as reaching his present perfection by the operation of the law of hate—the merciless law by which the strong crowd out and kill off the weak. If this is the law of our development then, if there is any logic that can bind the human mind, we shall turn backward toward the beast in proportion as we substitute the law of love. I prefer to believe that love rather than hatred is the law of development.

And to the sociologist E.A. Ross, he said in 1906 that “such a conception of man's origin would weaken the cause of democracy and strengthen class pride and the power of wealth.” He persisted in this uneasiness until World War I, when two events galvanized him into frenzied action. First, he learned that the martial view of Darwinism had been invoked by most German intellectuals and military leaders as a justification for war and future domination. Second, he feared the growth of skepticism at home, particularly as a source of possible moral weakness in the face of German militarism.

Bryan united his previous doubts with these new fears into a campaign against evolution in the classroom. We may question the quality of his argument, but we cannot deny that he rooted his own justifications in his lifelong zeal for progressive causes. In this crucial sense, his last hurrah does

not nullify, but rather continues, all the applause that came before. Consider the three principal foci of his campaign, and their links to his populist past:

1. For peace and compassion against militarism and murder. "I learned," Bryan wrote, "that it was Darwinism that was at the basis of that damnable doctrine that might makes right that had spread over Germany."

2. For fairness and justice toward farmers and workers and against exploitation for monopoly and profit. Darwinism, Bryan argued, had convinced so many entrepreneurs about the virtue of personal gain that government now had to protect the weak and poor from an explosion of anti-Christian moral decay: "In the United States," he wrote,

pure-food laws have become necessary to keep manufacturers from poisoning their customers; child labor laws have become necessary to keep employers from dwarfing the bodies, minds and souls of children; anti-trust laws have become necessary to keep overgrown corporations from strangling smaller competitors, and we are still in a death grapple with profiteers and gamblers in farm products.

3. For absolute rule of majority opinion against imposing elites. Christian belief still enjoyed widespread majority support in America, but college education was eroding a consensus that once insured compassion within democracy. Bryan cited studies showing that only 15 percent of college male freshmen harbored doubts about God, but that 40 percent of graduates had become skeptics. Darwinism, and its immoral principle of domination by a selfish elite, had fueled this skepticism. Bryan railed against this insidious undermining of morality by a minority of intellectuals, and he vowed to fight fire with fire. If they worked through the classroom, he would respond in kind and ban their doctrine from the public schools. The majority of Americans did not accept human evolution, and had a democratic right to proscribe its teaching.

Let me pass on this third point. Bryan's contention strikes at the heart of academic freedom, and I have often treated this subject in previous essays. Scientific questions cannot be decided by majority vote. I merely record that Bryan embedded his curious argument in his own concept of populism. "The taxpayers," he wrote,

have a right to say what shall be taught . . . to direct or dismiss those whom they employ as teachers and school authorities. . . The hand that writes the paycheck rules the school, and a teacher has no right to teach that which his employers object to.

But what of Bryan's first two arguments about the influence of Darwinism on militarism and domestic exploitation? We detect the touch of the Philistine in Bryan's claims, but I think we must also admit that he located something deeply troubling—and that the fault does lie partly with scientists and their acolytes.

Bryan often stated that two books had fueled his transition from *laissez faire* to vigorous action: *Headquarters Nights*, by Vernon L Kellogg (1917), and *The Science of Power*, by Benjamin Kidd (1918). I fault Harvard University for many things, but it has one great glory—its unparalleled resources. Half an hour after I needed these obscure books if I ever hoped to hold the key to Bryan's activities, I had extracted them from the depths of Widener Library. I found them every bit as riveting as Bryan had, and I came to understand his fears, even to agree in part (though not, of course, with his analysis or his remedies).

Vernon Kellogg was an entomologist and perhaps the leading teacher of evolution in America (he was a professor at Stanford and wrote a major textbook, *Evolution and Animal Life*, with his mentor and Darwin's leading disciple in America, David Starr Jordan, ichthyologist and president of Stanford University). During the First World War, while America maintained official neutrality, Kellogg became a high official in the international, nonpartisan effort for Belgian relief, a cause officially "tolerated" by Germany. In this capacity, he was posted at the headquarters of the German Great General Staff, the only American on the premises. Night after night, he listened to dinner discussions and arguments, sometimes in the presence of the Kaiser himself, among Germany's highest military

officers. *Headquarters Nights* is Kellogg's account of these exchanges. He arrived in Europe as a pacifist, but left committed to the destruction of German militarism by force.

Kellogg was appalled, above all, at the justification for war and German supremacy advanced by these officers, many of whom had been university professors before the war. They not only proposed an evolutionary rationale but advocated a particularly crude form of natural selection, defined as inexorable, bloody battle:

Professor von Flussen is Neo-Darwinian, as are most German biologists and natural philosophers. The creed of the Allmacht ["all might" or omnipotence] of a natural selection based on violent and competitive struggle is the gospel of the German intellectuals; all else is illusion and anathema. This struggle not only must go on, for that is the natural law, but it should go on, so that this natural law may work out in its cruel, inevitable way the salvation of the human species.... That human group which is in the most advanced evolutionary stage... should win in the struggle for existence, and this struggle should occur precisely that the various types may be tested, and the best not only preserved, but put in position to impose its kind of social organization—its Kultur—on the others, or, alternatively, to destroy and replace them. This is the disheartening kind of argument that I faced at Headquarters.... Add the additional assumption that the Germans are the chosen race, and that German social and political organization the chosen type of human community life, and you have a wall of logic and conviction that you can break your head against but can never shatter—by headwork. You long for the muscles of Samson.

Kellogg, of course, found in this argument only "horrible academic casuistry and conviction that the individual is nothing, the state everything." Bryan conflated a perverse interpretation with the thing itself and affirmed his worst fears about the polluting power of evolution.

Benjamin Kidd was an English commentator highly respected in both academic and lay circles. His book *Social Evolution* (1894) was translated into a dozen languages and as widely read as anything ever published on the implications of evolution. In *The Science of Power* (1918), his posthumous work, Kidd constructs a curious argument that, in a very different way from Kellogg's, also fueled Bryan's dread. Kidd was a philosophical idealist who believed that life must move toward progress by rejecting material struggle and individual benefit. Like the German militarists, but to excoriate rather than to praise, Kidd identified Darwinism with these impediments to progress. In a chapter entitled "The Great Pagan Retrogression," Kidd presented a summary of his entire thesis:

1. Darwin's doctrine of force rekindled the most dangerous of human tendencies—our pagan soul, previously (but imperfectly) suppressed for centuries by Christianity and its doctrines of love and renunciation:

The hold which the theories of *The Origin of Species* obtained on the popular mind in the West is one of the most remarkable incidents in the history of human thought.... Everywhere throughout civilization an almost inconceivable influence was given to the doctrine of force as the basis of legal authority. . .

For centuries the Western pagan had struggled with the ideals of a religion of subordination and renunciation coming to him from the past. For centuries he had been bored almost beyond endurance with ideals of the world presented to him by the Churches of Christendom. . . . But here was a conception of life which stirred to its depths the inheritance in him from past epochs of time.... This was the world which the masters of force comprehended. The pagan heart of the West sang within itself again in atavistic joy.

2. In England and America, Darwinism's worst influence lay in its justification for industrial exploitation as an expression of natural selection ("social Darwinism" in its pure form):

The prevailing social system, born as it had been in struggle, and resting as it did in

the last resort on war and on the toil of an excluded proletariat, appeared to have become clothed with a new and final kind of authority.

3. In Germany, Darwin's doctrine became a justification for war:

Darwin's theories came to be openly set out in political and military textbooks as the full justification for war and highly organized schemes of national policy in which the doctrine of force became the doctrine of Right.

4. Civilization can only advance by integration: the essence of Darwinism is division by force for individual advantage. Social progress demands the "subordination of the individual to the universal" via "the iron ethic of Renunciation."

5. Civilization can only be victorious by suppressing our pagan soul and its Darwinian justification:

It is the psychic and spiritual forces governing the social integration in which the individual is being subordinated to the universal which have become the winning forces in evolution.

This characterization of evolution has been asserted in many contexts for nearly 150 years—by German militarists, by Kidd, by hosts of the vicious and the duped, the self-serving and the well-meaning. But it remains deeply and appallingly wrong for three basic reasons.

1. Evolution means only that all organisms are united by ties of genealogical descent. This definition says nothing about the mechanism of evolutionary change: in principle, externally directed upward striving might work as well as the caricatured straw man of bloody Darwinian battle to the death. The objections, then, are to Darwin's theory of natural selection, not to evolution itself.

2. Darwin's theory of natural selection is an abstract argument about a metaphorical "struggle" to leave more offspring in subsequent generations, not a statement about murder and mayhem. Direct elimination of competitors is one pathway to Darwinian advantage, but another might be cooperation through social ties within a species or by symbiosis between species. For every act of killing and division, natural selection can also favor cooperation and integration in other circumstances. Nineteenth-century interpreters did generally favor a martial view of selection, but for every militarist, there was a Prince Kropotkin, urging that the "real" Darwinism be recognized as a doctrine of integration and "mutual aid."

3. Whatever Darwinism represents on the playing fields of nature (and by representing both murder and cooperation at different times, it upholds neither as nature's principal way), Darwinism implies nothing about moral conduct. We do not find our moral values in the actions of nature. One might argue, as Thomas Henry Huxley did in his famous essay "Evolution and Ethics," that Darwinism is primarily a law of battle, and that human morality must be defined as the discovery of an opposite path. Or one might argue, as grandson Julian did, that Darwinism is a law of cooperation and that moral conduct should follow nature. I can only conclude that Darwinism offers no moral guidance. But Bryan made this common threefold error and continually characterized evolution as a doctrine of battle and destruction of the weak, a dogma that undermined any decent morality and deserved banishment from the classroom. In a rhetorical flourish near the end of his "Last Evolution Argument," the final speech that he prepared with great energy, but never had the opportunity to present at the Scopes trial, Bryan proclaimed:

Again force and love meet face to face, and the question "What shall I do with Jesus?" must be answered. A bloody, brutal doctrine—Evolution—demands, as the rabble did nineteen hundred years ago, that He be crucified.

I wish I could stop here with a snide comment on Bryan as Yahoo and a ringing defense for science's proper interpretation of Darwinism. But I cannot, for Bryan was right in one crucial way. Lord only knows, he understood precious little about science, and he wins no medals for logic of argument. But when he said that Darwinism had been widely portrayed as a defense of war, domination, and domestic exploitation, he was right. Scientists would not be to blame for this if we had

always maintained proper caution in interpretation and proper humility in resisting the extension of our findings into inappropriate domains. But many of these insidious and harmful misinterpretations had been promoted by scientists. Several of the German generals who traded arguments with Kellogg had been university professors of biology.

Just one example from a striking source. In his "Last Evolution Argument," Bryan charged that evolutionists had misused science to present moral opinions about the social order as though they represented facts of nature.

By paralyzing the hope of reform, it discourages those who labor for the improvement of man's condition.... Its only program for man is scientific breeding, a system under which a few supposedly superior intellects, self-appointed, would direct the mating and the movements of the mass of mankind—an impossible system!

Bryan was quite correct here. One of the saddest chapters in all the history of science involves the extensive misuse of data to support biological determinism, the claim that social inequalities based on race, sex, or class cannot be altered because they reflect the innate and inferior genetic endowments of the disadvantaged (see my book *The Mismeasure of Man*). It is bad enough when scientists misidentify their own social preferences as facts of nature in their technical writings. It is especially unfortunate when writers of textbooks, particularly for elementary and high school students, promulgate these (or any) social doctrines as the objective findings of science.

Two years ago, I obtained a copy of the book that John Scopes used to teach evolution to the children of Dayton, Tennessee—*A Civic Biology*, by George William Hunter (New York: American Book Company, 1914). Many writers have looked into this book to read the section on evolution that Scopes taught and Bryan quoted. But I found something disturbing in another chapter that has eluded previous commentators—an egregious claim that science holds the moral answer to questions about mental retardation, or social poverty so misinterpreted. Hunter discusses the infamous Jukes and Kallikaks, the "classic," and false, cases once offered as canonical examples of how bad heredity runs in families. Under the heading "Parasitism and Its Cost to Society—the Remedy," he writes:

Hundreds of families such as those described above exist today, spreading disease, immorality and crime to all parts of this country. The cost to society of such families is very severe. Just as certain animals or plants become parasitic on other plants or animals, these families have become parasitic on society. They not only do harm to others by corrupting, stealing or spreading disease, but they are actually protected and cared for by the state out of public money. Largely for them the poorhouse and the asylum exist. They take from society, but they give nothing in return. They are true parasites.

If such people were lower animals, we would probably kill them off to prevent them from spreading. Humanity will not allow this, but we do have the remedy of separating the sexes in asylums or other places and in various ways preventing intermarriage and the possibilities of perpetuating such a low and degenerate race.

Bryan had the wrong solution, but he had correctly identified a problem!

Science is a discipline, and disciplines are exacting. All maintain rules of conduct and self-policing. All gain strength, respect, and acceptance by working honorably within their bounds and knowing when transgression upon other realms counts as hubris or folly. Science is a discipline dedicated to learning about the factual state of nature and trying to explain and coordinate these data into general theories. Science teaches us many wonderful and disturbing things—facts that need weighing when we try to develop standards of conduct and ponder the great questions of morals and aesthetics. But science cannot answer these questions alone and cannot dictate social policy.

Scientists have power by virtue of the respect commanded by the discipline. We may therefore be sorely tempted to misuse that power in furthering a personal prejudice or social goal—why not provide that extra oomph by extending the umbrella of science over a personal preference in eth-

ics or politics? But we cannot, lest we lose the very respect that tempted us in the first place.

If this plea sounds like the conservative and pessimistic retrenching of a man on the verge of middle age, I reply that I advocate this care and restraint in order to demonstrate the enormous power of science. We live with poets and politicians, preachers and philosophers. All have their ways of knowing, and all are valid in their proper domains. The world is too complex and interesting for one way to have all the answers. Besides, highfalutin morality aside, if we continue to overextend the boundaries of science, folks like Bryan will nail us properly for their own insidious purposes.

We should give the last word to Vernon Kellogg, the great teacher who understood the principle of strength in limits, and who listened with horror to the ugliest misuses of Darwinism. Kellogg properly taught in his textbook (with David Starr Jordan) that Darwinism cannot provide moral answers:

Some men who call themselves pessimists because they cannot read good into the operations of nature forget that they cannot read evil. In morals the law of competition no more justifies personal, official, or national selfishness or brutality than the law of gravitation justifies the shooting of a bird.

Kellogg also possessed the cardinal trait lacked both by Bryan and by many of his evolutionary adversaries: humility in the face of our profound ignorance about nature's ways, combined with that greatest of all scientific privileges, the joy of the struggle to know. In his greatest book, *Darwinism Today* (1907), Kellogg wrote:

We are ignorant, terribly, immensely ignorant. And our work is, to learn. To observe, to experiment, to tabulate, to induce, to deduce. Biology was never a clearer or more inviting field for fascinating, joyful, hopeful work.

Amen, brother!

Postscript: As I was writing this essay, I learned of the untimely death from cancer (at age 47) of Federal Judge William R. Overton of Arkansas. Judge Overton presided and wrote the decision in *McLean v Arkansas* (Jan. 5, 1982), the key episode that led to our final victory in the Supreme Court last June. In this decision, he struck down the Arkansas law mandating equal time for "creation science." This precedent encouraged Judge Duplantier to strike down the similar Louisiana law by summary judgment (without trial). It is this decision of summary judgment that the Supreme Court has now affirmed. (Since Arkansas and Louisiana had the only antievolution statutes in the country, these decisions close the issue.) Judge Overton's brilliant and beautifully crafted decision is the finest legal document ever written about this question—far surpassing anything that the Scopes trial generated, or any document arising from the two Supreme Court cases (*Epperson v Arkansas* of 1968, striking down Scopes-era laws that banned evolution outright, and last month's decision banning the "equal time" strategy). Judge Overton's definitions of science are so cogent and clearly expressed that we can use his words as a model for our own proceedings. *Science*, the leading journal of American professional science, published Judge Overton's decision verbatim as a major article.

I was a witness in *McLean v. Arkansas*. I never spoke to Judge Overton personally, and I spent only a part of a day in his courtroom. Yet, when I fell ill with cancer the next year, I learned from several sources that Judge Overton had heard and had inquired about my health from mutual acquaintances, asking that his best wishes be conveyed to me. I mourn the passing of this brilliant and compassionate man, and I dedicate this essay to his memory.



William Jennings Bryan

William Jennings Bryan's Last Message

William Jennings Bryan prepared this address as the closing argument for the prosecution in the Scopes Trial. Closing arguments, however, were preempted when the trial was cut short with the request of the defense for Mr. Scopes to be found guilty, thereby providing a basis for appeal of the case to higher courts. At the insistence of journalists, Mr. Bryan dictated the address in the five days following the trial. Although he was busy with other duties and had serious medical problems, he completed editing the printer proofs the night before he died.

May it Please the Court, and Gentlemen of the Jury:

Demosthenes, the greatest of ancient orators, in his "Oration on the Crown," the most famous of his speeches, began by supplicating the favor of all the gods and goddesses of Greece. If, in a case which involved only his own fame and fate, he felt justified in petitioning the heaven gods of his country, surely we, who deal with the momentous issues involved in this case, may well pray to the Ruler of the Universe for wisdom to guide us in the performance of our several parts in this historic trial.

Let me, in the first place, congratulate our cause that circumstances have committed the trial to a community like this and entrusted the decision to a jury made up largely of the yeomanry of the state. The book in issue in this trial contains on its first page two pictures contrasting the disturbing noises of a great city with the calm serenity of the country. It is a tribute that rural life has fully earned.

I appreciate the sturdy honesty and independence of those who come into daily contact with the earth, who, living near to nature, worship nature's God, and who, dealing with the myriad mysteries of earth and air, seek to learn from revelation about the Bible's wonder-working God. I admire the stern virtues, the vigilance and the patriotism of the class from which the jury is drawn, and am reminded of the lines of Scotland's immortal bard, which, when changed but slightly, describe your country's confidence in you!

O Scotia, my dear, my native soil!
 For whom my warmest wish to Heaven is sent,
 Long may thy hardy sons of rustic toil
 Be blest with health, and peace, and sweet content!
 And, oh, may Heav'n their simple lives prevent
 From luxury's contagion, weak and vile!
 Then, howe'er crowns and coronets be rent,
 A virtuous populace may rise the while,
 And stand, a wall of fire, around their much-loved isle.

Let us now separate the issues from the misrepresentations, intentional or unintentional, that have obscured both the letter and the purpose of the law. This is not an interference with freedom of conscience. A teacher can think as he pleases and worship God as he likes, or refuse to worship God at all. He can believe in the Bible or discard it; he can accept Christ or reject Him. This law places no obligations or restraints upon him. And so with freedom of speech; he can, so long as he acts as an individual, say anything he likes on any subject. This law does not violate any right guaranteed by any constitution to any individual. It deals with the defendant, not as an individual, but as an employee, an official or public servant, paid by the state, and therefore under instructions from the state.

Right of the state to control public schools

The right of the state to control the public schools is affirmed in the recent decision in the Oregon case, which declares that the state can direct what shall be taught and also forbid the teaching of anything "manifestly inimical to the public welfare" The above decision goes even

farther and declares that the parent not only has the right to guard the religious welfare of the child, but is in duty bound to guard it. That decision fits this case exactly. The state had a right to pass this law, and the law represents the determination of the parents to guard the religious welfare of their children.

It need hardly be added that this law did not have its origin in bigotry. It is not trying to force any form of religion on anybody. The majority is not trying to establish a religion or to teach it—it is trying to protect itself from the effort of an insolent minority to force irreligion upon the children under the guise of teaching science. What right has a little irresponsible oligarchy of self-styled “intellectuals” to demand control of the schools of United States, in which 25,000,000 of children are being educated at annual expense of nearly \$2,000,000,000?

Christians must, in every state of the Union, build their own colleges in which to teach Christianity; it is only simple justice that atheists, agnostics and unbelievers should build their own colleges if they want to teach their own religious views or attack the religious views of others.

The statute is brief and free from ambiguity. It prohibits the teaching, in the public schools, of “any theory that denies the story of the Divine Creation as taught in the Bible,” and teaches, “instead, that man descended from a lower order of animals.” The first sentence sets forth the purpose of those who passed the law. They forbid the teaching of any evolutionary theory that disputes the Bible record of man’s creation and, to make sure that there shall be no misunderstanding, they place their own interpretations on their language and specifically forbid the teaching of any theory that makes man a descendant of any lower form of life.

The evidence shows that defendant taught, in his own language as well as from a book outlining the theory, that man descended from lower forms of life. Howard Morgan’s testimony gives us a definition of evolution that will become known throughout the world as this case is discussed. Howard, a 14-year-old boy, has translated the words of the teacher and the textbook into language that even a child can understand. As he recollects it, the defendant said, “A little germ or one cell organism was formed in the sea; this kept evolving until it got to be a pretty good-sized animal, then came on to be a land animal, and it kept evolving, and from this was man.” There is no room for difference of opinion here, and there is no need of expert testimony. Here are the facts, corroborated by another student, Harry Shelton, and admitted to be true by counsel for defense. Mr. White, superintendent of schools, testified to the use of Hunter’s *Civic Biology*, and to the fact that the defendant not only admitted teaching evolution, but declared that he could not teach it without violating the law. Mr. Robinson, the chairman of the school board, corroborated the testimony of Superintendent White in regard to the defendant’s admissions and declaration. These are the facts; they are sufficient and undisputed. A verdict of guilty must follow.

But the importance of this case requires more. The facts and arguments presented to you must not only convince you of the justice of conviction in this case but, while not necessary to a verdict of guilty, they should convince you of the righteousness of the purpose of the people of the state in the enactment of this law. The state must speak through you to the outside world and repel the aspersions cast by the counsel for the defense upon the intelligence and the enlightenment of the citizens of Tennessee. The people of this state have a high appreciation of the value of education. The state constitution testifies to that in its demand that education shall be fostered and that science and literature shall be cherished. The continuing and increasing appropriations for public instruction furnish abundant proof that Tennessee places a just estimate upon the learning that is secured in its schools.

Declares religion not hostile to learning

Religion is not hostile to learning. Christianity has been the greatest patron learning has ever had. But Christians know that "the fear of the Lord is the beginning of wisdom" now just as it has been in the past, and they therefore oppose the teaching of guesses that encourage godlessness among the students.

Neither does Tennessee undervalue the service rendered by science. The Christian men and women of Tennessee know how deeply mankind is indebted to science for benefits conferred by the discovery of the laws of nature and by the designing of machinery for the utilization of these laws. Give science a fact and it is not only invincible, but it is of incalculable service to man. If one is entitled to draw from society in proportion to the service that he renders to society, who is able to estimate the reward earned by those who have given to us the use of steam, the use of electricity, and enabled us to utilize the weight of water that flows down the mountainside? Who will estimate the value of the service rendered by those who invented the phonograph, the telephone and the radio? Or, to come more closely to our home life, how shall we recompense those who gave us the sewing machine, the harvester, the threshing machine, the tractor, the automobile and the method now employed in making artificial ice? The department of medicine also opens an unlimited field for invaluable service. Typhoid and yellow fever are not feared as they once were. Diphtheria and pneumonia have been robbed of some of their terrors, and a high place on the scroll of fame still awaits the discoverer of remedies for arthritis, cancer, tuberculosis and other dread diseases to which mankind is heir.

Christianity welcomes truth from whatever source it comes, and is not afraid that any real truth from any source can interfere with the divine truth that comes by inspiration from God Himself. It is not scientific truth to which Christians object, for true science is classified knowledge, and nothing therefore can be scientific unless it is true.

Evolution not truth; merely an hypothesis

Evolution is not truth; it is merely an hypothesis—it is millions of guesses strung together. It had not been proven in the days of Darwin; he expressed astonishment that with two or three million species it had been impossible to trace any species to any other species. It had not been proven in the days of Huxley, and it has not been proven up to today. It is less than four years ago that Prof. Bateson came all the way from London to Canada to tell the American scientists that every effort to trace one species to another had failed—every one. He said he still had faith in evolution, but had doubts about the origin of species. But of what value is evolution if it cannot explain the origin of species? While many scientists accept evolution as if it were a fact, they all admit, when questioned, that no explanation has been found as to how one species developed into another.

Darwin suggested two laws, sexual selection and natural selection. Sexual selection has been laughed out of the classroom, and natural selection is being abandoned, and no new explanation is satisfactory even to scientists. Some of the more rash advocates of evolution are wont to say that evolution is as firmly established as the law of gravitation or the Copernican theory. The absurdity of such a claim is apparent when we remember that anyone can prove the law of gravitation by throwing a weight into the air, and that anyone can prove the roundness of the earth by going around it, while no one can prove evolution to be true in any way whatever.

Chemistry is an insurmountable obstacle in the path of evolution. It is one of the greatest of the sciences; it separates the atoms—isolates them and walks about them, so to speak. If there were in nature a progressive force, an eternal urge, chemistry would find it. But it is not there. All of the ninety-two original elements are separate and distinct; they combine in fixed and permanent proportions. Water is H_2O , as it has been from the beginning, it was here before life ap-

peared and has never changed; neither can it be shown that anything else has materially changed.

There is no more reason to believe that man descended from some inferior animal than there is to believe that a stately mansion has descended from a small cottage. Resemblances are not proof—they simply put us on inquiry. As one fact, such as the absence of the accused from the scene of the murder, outweighs all the resemblances that a thousand witnesses could swear to, so the inability of science to trace any one of the millions of species to another species, outweighs all the resemblances upon which evolutionists rely to establish man's blood relationship with the brutes.

Man's urge comes not from within, but from above

But while the wisest scientists cannot prove a pushing power, such as evolution is supposed to be, there is a lifting power that any child can understand. The plant lifts the mineral up into a higher world, and the animal lifts the plant up into a world still higher. So, it has been reasoned by analogy, man rises, not by a power within him, but only when drawn upward by a higher power. There is a spiritual gravitation that draws all souls toward heaven, just as surely as there is a physical force that draws all matter on the surface of the earth towards the earth's center. Christ is our drawing power; He said, "I, if I be lifted up from the earth, will draw all men unto Me," and His promise is being fulfilled daily all over the world.

It must be remembered that the law under consideration in this case does not prohibit the teaching of evolution up to the line that separates man from the lower forms of animal life. The law might well have gone farther than it does and prohibit the teaching of evolution in lower forms of life; the law is a very conservative statement of the people's opposition to an anti-Biblical hypothesis. The defendant was not content to teach what the law permitted; he, for reasons of his own, persisted in teaching that which was forbidden for reasons entirely satisfactory to the lawmakers.

Most of the people who believe in evolution do not know what evolution means. One of the science books taught in the Dayton high school has a chapter on "The Evolution of Machinery." This is a very common misuse of the term. People speak of the evolution of the telephone, the automobile and the musical instrument. But these are merely illustrations of man's power to deal intelligently with inanimate matter; there is no growth from within in the development of machinery.

Equally improper is the use of the word "evolution" to describe the growth of a plant from a seed, the growth of a chicken from an egg or the development of any form of animal life from a single cell. All these give us a circle, not a change from one species to another.

Evolution wrong word even in plant life

Evolution—the evolution involved in this case, and the only evolution that is a matter of controversy anywhere—is the evolution taught by defendant, set forth in the books now prohibited by the new state law, and illustrated in the diagram printed on page 194 of Hunter's *Civic Biology*. The author estimates the number of species in the animal kingdom at 518,900. These are divided into eighteen classes, and each class is indicated on a diagram by a circle, proportionate in size to the number of species in each class and attached by a stem to the trunk of the tree. It begins with protozoa and ends with the mammals. Passing over the classes with which the average person is unfamiliar, let me call your attention to a few of the larger and better known groups. The insects are numbered at 360,000, over two-thirds of the total number of species in the animal world. The fishes are numbered at 13,000, the amphibians at 1,400, the reptiles at 3,500, and the birds are 13,000, while 3,500 mammals are crowded together in a little circle that is barely higher than the bird circle. No circle is reserved for man alone. He is, according to the

diagram, shut up in the little circle entitled "Mammals," with 3,499 other species of mammals. Does it not seem a little unfair not to distinguish between man and the lower forms of life? What shall we say of the intelligence, not to say religion, of those who are so particular to distinguish between fishes and reptiles and birds, but put a man with an immortal soul in the same circle with the wolf, the hyena and the skunk? What must be the impression made upon children by such a degradation of man?

In the preface of this book, the author explains that it is for children, and adds that "The boy or girl of average ability upon admission to the secondary school is not a thinking individual." Whatever may be said in favor of teaching evolution to adults, it surely is not proper to teach it to children who are not yet able to think.

The evolutionist does not undertake to tell us how protozoa, moved by interior and resident forces, sent life up through all the various species, and cannot prove that there was actually any such compelling power at all. And yet, the school children are asked to accept their guesses and build a philosophy of life upon them. If it were not so serious a matter, one might be tempted to speculate upon the various degrees of relationship that, according to evolutionists, exist between man and other forms of life. It might require some very nice calculation to determine at what degree of relationship the killing of a relative ceases to be murder and the eating of one's kin ceases to be cannibalism.

Evolution casts doubt upon creation itself

But it is not a laughing matter when one considers that evolution not only offers no suggestions as to a Creator but tends to put the creative act so far away as to cast doubt upon creation itself. And while it is shaking faith in God as a beginning, it is also creating doubt as to a heaven at the end of life. Evolutionists do not feel that it is incumbent upon them to show how life began or at what point in their long-drawn-out scheme of changing species man became endowed with hope and promise of immortal life. God may be a matter of indifference to the evolutionists and a life beyond may have no charm for them, but the mass of mankind will continue to worship their Creator and continue to find comfort in the promise of their Savior that He has gone to prepare a place for them. Christ has made of death a narrow, starlit strip between the companionship of yesterday and the reunion of tomorrow; evolution strikes out the stars and deepens the gloom that enshrouds the tomb. If the results of evolution were unimportant, one might require less proof in support of the hypothesis, but before accepting a new philosophy of life, built upon a materialistic foundation, we have reason to demand something more than guesses; "we may well suppose" is not a sufficient substitute for "Thus saith the Lord."

Darwin's family tree pointed out by own words

If, your honor, and you, gentlemen of the jury, would have an understanding of the sentiment that lies back of the statute against the teaching of evolution, please consider the facts that I shall now present to you. First, as to the animals to which evolutionists would have us trace our ancestry. The following is Darwin's family tree, as you will find it set forth on pages 180-181 of his *Descent of Man* (Ed. 1874, Hurst):

The most ancient progenitors in the kingdom of Vertebrata, at which we are able to obtain an obscure glance, apparently consisted of a group of marine animals, resembling the larvae of existing ascidians. These animals probably gave rise to a group of fishes, as lowly organized as the lancelet; and from these the Ganoids, and other fishes like the Lepidosiren, must have been developed. From such fish a very small advance would carry us on to the amphibians. We have seen that birds and reptiles were once intimately connected together; and the Monotremata now

connect mammals with reptiles in a slight degree. But no one can at present say by what line of descent the three higher and related classes, namely, mammals, birds and reptiles, were derived from the two lower vertebrate classes, namely, amphibians and fishes. In the class of mammals the steps are not difficult to conceive which led from the ancient Monotremata to the ancient Marsupials; and from these to the early progenitors of the placental mammals. We may thus ascend to the Lemuridae; and the interval is not very wide from these to the Simiadae. The Simiadae then branched off into two great stems, the New World and Old World monkeys; and from the latter, at a remote period, Man, the wonder and glory of the universe, proceeded. Thus we have given to man a pedigree of prodigious length, but not, it may be said, of noble quality.

Note the words implying uncertainty: "obscure glance," "apparently," "resembling," "must have been," "slight degree," and "conceive."

Darwin, on page 171 of the same book, tries to locate his first man—that is, the first man to come down out of the trees—in Africa. After leaving company with gorillas and chimpanzees, he says, "But it is useless to speculate on this subject." If he had only thought of this earlier the world we been spared much of the speculation that his brute hypothesis has excited. On page 79 Darwin gives some fanciful reasons for believing that man is more likely to have descended from the chimpanzee than from the gorilla. His speculations are an excellent illustration of the effect that the evolutionary hypothesis has in cultivating the imagination. Prof. J. Arthur Thomson says that the "idea of evolution is the most potent thought economizing formula the world has yet known." It is more than that; it dispenses with thinking entirely and relies on the imagination.

On page 141 Darwin attempts to trace the mind of man back to the mind of lower animals. On pages 113 and 114 he endeavors to trace man's moral nature back to the animals. It is all animal, animal, animal, with never a thought of God or of religion.

Our first indictment against evolution is that it disputes the truth of the Bible account of man's creation and shakes faith in the Bible as the Word of God. This indictment we prove by comparing the processes described as evolutionary with the text of Genesis. It not only contradicts the Mosaic record as to the beginning of human life, but it disputes the Bible doctrine of reproduction according to kind—the greatest scientific principle known.

Our second indictment is that the evolutionary hypothesis, carried to its logical conclusion, disputes every vital truth of the Bible. Its tendency, if not inevitable, is to lead those who really accept it, first to agnosticism and then to atheism. Evolutionists attack the truth of the Bible, not openly at first, but by using weasel words like "poetical," "symbolical" and "allegorical" to suck the meaning out the inspired record of man's creation.

We call as our first witness Charles Darwin. He began life a Christian. On page 39, Vol. 1 of *The Life and Letters of Charles Darwin*, by his son, Francis Darwin, he says, speaking of the period from 1828 to 1831, "I did not then in the least doubt the strict and literal truth of every word in the Bible." On page 412 of Vol. II of the same publication, he says, "When I was collecting facts for *The Origin* my belief in what is called a personal God was as firm as that of Dr. Pusey himself." It may be a surprise to your honor and to you, gentlemen of the jury, as it was to me, to learn that Darwin spent three years at Cambridge studying for the ministry.

This was Darwin as a young man, before he came under the influence of the doctrine that man came from a lower order of animals. The change wrought in his religious views will be found in a letter written to a German youth in 1879, and printed on page 277 of Vol. I of *The Life and Letters* above referred to. The letter begins: "I am much engaged, an old man, and out of health, and I cannot spare time to answer your questions fully—nor indeed can they be answered. Science has nothing to do with Christ, except insofar as the habit of scientific research makes

a man cautious in admitting evidence. For myself, I do not believe that there ever has been any revelation. As for a future life, every man must judge for himself between conflicting vague probabilities.”

Note that “Science has nothing to do with Christ, except insofar as the habit of scientific research makes a man cautious in admitting evidence” Stated plainly, that simply means that “the habit of scientific research” makes one cautious in accepting the only evidence that we have of Christ’s existence, mission, teaching, crucifixion and resurrection, namely, the evidence found in the Bible. To make this interpretation of his words the only possible one, he adds, “For myself, I do not believe there ever has been any revelation.” In rejecting the Bible as a revelation from God, he rejects the Bible’s conception of God, and he rejects also the supernatural Christ of whom the Bible, and the Bible alone, tells. And, it will be observed, he refuses to express any opinion as to a future.

Now let us follow with his son’s exposition of his father’s views as they are given in extracts from a biography written in 1876. Here is Darwin’s language as quoted by his son:

During these two years (October, 1838, to January, 1839) I was led to think much about religion. Whilst on board the Beagle I was quite orthodox and I remember being heartily laughed at by several of the officers (though themselves orthodox for quoting the Bible as an unanswerable authority on some point of morality. When thus reflecting, I felt compelled to look for a first cause, having an intelligent mind in some degree analogous to man; and I deserved to be called a Theist. This conclusion was strong in my mind about the time, as far as I can remember, when I wrote *The Origin of Species*; it is since that time that it has very gradually, with many fluctuations, become weaker. But then arises the doubt, can the mind of man, which has, as I fully believe, been developed from a mind as low as that possessed by the lowest animals, be trusted when it draws such grand conclusions? I cannot pretend to throw the least light on such abstruse problems. The mystery of the beginning of all things is insoluble by us; and I for one must be content to remain an agnostic.

Darwin used Bible as early arguments

When Darwin entered upon his scientific career he was “quite orthodox” and quoted “the Bible as an unanswerable authority on some point of morality.” Even when he wrote *The Origin of Species*, the thought of a first cause, having an intelligent mind in some degree analogous to man” was strong in his mind. It was after that time that “very gradually, with many fluctuations,” his belief in God became weaker. He traces this decline for us and concludes by telling us that he “cannot pretend to throw the least light on such abstruse problems”—the religious problems above referred to. Then comes the flat statement that he “must be content to remain an agnostic”; and to make clear what he means by the word, “agnostic,” he says that “The mystery of the beginning of all things is insoluble by us”—not by him alone, but by everybody. Here we have the effect of evolution upon its most distinguished exponent; it led him from an orthodox Christian, believing every word of the Bible and in a personal God, down and down and down to helpless and hopeless agnosticism.

But there is one sentence upon which I reserved comment—it throws light upon his downward pathway. “But then arises the doubt, can the mind of man which has, as I fully believe, been developed from a mind as low as that possessed by the lowest animals, be trusted when it draws such grand conclusions?”

Here is the explanation: he drags man down to the brute level, and then, judging man by brute standards, he questions whether man’s mind can be trusted to deal with God and immortal-

ity?

How can any teacher tell his students that evolution does not tend to destroy his religious faith? How can an honest teacher conceal from his students the effect of evolution upon Darwin himself? And is it not stranger still that preachers who advocate evolution never speak of Darwin's loss of faith, due to his belief in evolution? The parents of Tennessee have reason enough to fear the effect of evolution on the minds of their children. Belief in evolution cannot bring to those who hold such a belief any compensation for the loss of faith in God, trust in the Bible, and belief in the supernatural character of Christ. It is belief in evolution that has caused so many scientists and so many Christians to reject the miracles of the Bible, and then give up, one after another, every vital truth of Christianity. They finally cease to pray and sunder the tie that binds them to their Heavenly Father.

Miracle should not become stumbling block

The miracle should not be a stumbling block to anyone. It raises but three questions: First, could God perform a miracle? Yes, the God who created the universe can do anything He wants to with it. He can temporarily suspend any law that He has made or He may employ higher laws that we do not understand.

Second—Would God perform a miracle? To answer that question in the negative one would have to know more about God's plans and purposes than a finite mind can know, and yet some are so wedded to evolution that they deny that God would perform a miracle merely because a miracle is inconsistent with evolution.

If we believe that God can perform a miracle and might desire to do so, we are prepared to consider with open mind the third question, namely, Did God perform the miracles recorded in the Bible? The same evidence that establishes the authority of the Bible establishes the truth of the record of miracles performed.

Now, let me read to the honorable court and to you, gentlemen of the jury, one of the most pathetic confessions that has come to my notice. George John Romanes, a distinguished biologist, sometimes called the successor of Darwin, was prominent enough to be given extended space in both the *Encyclopaedia Britannica* and *Encyclopedia Americana*. Like Darwin, he was reared in the orthodox faith, and like Darwin, was led away from it by evolution (see *Thoughts on Religion*, page 180). For twenty-five years he could not pray. Soon after he became an agnostic, he wrote a book entitled, *A Candid Examination of Theism*, publishing it under the assumed name, "Physicus." In this book (see page 29, *Thoughts on Religion*), he says:

And for as much as I am far from being able to agree with those who affirm that the twilight doctrine of the "new faith" is a desirable substitute for the waning splendor of "the old," I am not ashamed to confess that with this virtual negation of God the universe to me has lost its soul of loveliness; and although from henceforth the precept to "work while it is day" will doubtless but gain an intensified force from the terribly intensified meaning of the words that "the night cometh when no man can work," yet when at times I think, as think at times I must, of the appalling contrast between the hallowed glory of that creed which once was mine, and the lonely mystery of existence as now I find it—at such times I shall ever feel it impossible to avoid the sharpest pang of which my nature is susceptible.

Do these evolutionists stop to think of the crime they commit when take faith out of the hearts of men and women and lead them out into a starless night? What pleasure can they find in robbing a human being of "the hallowed glory of that creed" that Romanes once cherished, and in substituting "the lonely mystery of existence" as he found it? Can the mothers and fathers of

Tennessee be blamed for trying to protect their children from such a tragedy?

If anyone had been led to complain of the severity of the punishment that hangs over the defendant, let him compare this crime and its mild punishment with the crimes for which a greater punishment is prescribed. What is the taking of a few dollars from one in day or night in comparison with the crime of leading one away from God and away from Christ?

Shakespeare regards the robbing one of his good name as much more than the stealing of his purse. But we have a higher authority than Shakespeare to invoke in this connection. He who spake as never man thus spake describes the crimes that are committed against the young: "It is impossible but that offences will come; but woe unto him through whom they come. It were better for him that a millstone were hanged about his neck and he cast into the sea, than that he should offend one of these little ones."

Christ did not overdraw the picture. Who is able to set a price upon the life of a child—a child into whom a mother has poured her life and for whom a father has labored? What may a noble life mean to the child itself, to the parents, and to the world?

And it must be remembered that we can measure the effect on only that part of life which is spent on earth; we have no way of calculating the effect on that infinite circle of life of which existence here is but a small arc. The soul is immortal and religion deals with the soul; the logical effect of the evolutionary hypothesis is to undermine religion and thus affect the soul. I recently received a list of questions that were to be discussed in a prominent eastern school for women. The second question in the list reads, "Is religion an obsolescent function that should be allowed to atrophy quietly, without arousing the passionate prejudice of outworn superstition?" The real attack of evolution, it will be seen, is not upon orthodox Christianity, or even upon Christianity, but upon religion—the most basic in man's existence and the most practical thing in life.

But I have some more evidences of the effect of evolution upon the life of those who accept it and try to harmonize their thought with it.

Over half of scientists deny existence of God

James H. Leuba, a professor of psychology at Bryn Mawr College, Pennsylvania, published a few years ago a book entitled *Belief in God and Immortality*. In this book he relates how he secured the opinions of scientists as to the existence of a personal God and a personal immortality. He used a volume entitled *American Men of Science*, which, he says, included the names of "practically every American who may properly be called a scientist." There were 5,500 names in the book. He selected 1,000 names as representative of the 5,500, and addressed them personally. Most of them, he said, were teachers in schools of higher learning. The names were kept confidential. Upon the answers received, he asserts that over half them doubt or deny the existence of a personal God and a personal immortality, and he asserts that unbelief increases in proportion to prominence, the percentage of unbelief being greatest among the most prominent. Among biologists, believers in a personal God numbered less than 31 percent, while believers in a personal immortality numbered only 37 percent.

He also questioned the students in nine colleges of high rank and from 1,000 answers received, 97 percent of which were from students between 18 and 20, he found that unbelief increased from 15 percent in the freshman class up to 40 to 45 percent among the men who graduated. On page 280 of this book, we read, "The students' statistics show that young people enter college, possessed of the beliefs still accepted, more or less perfunctorily, in the average home of the land, and gradually abandon the cardinal Christian beliefs." This change from belief to unbelief he attributes to the influence of the persons "of high culture under whom they studied."

The people of Tennessee have been patient enough; they have acted none too soon. How can they expect to protect society, and even the church, from the deadening influence of agnosti-

cism and atheism if they permit the teachers employed by taxation to poison the minds of the youth with this destructive doctrine? And remember that the law has not heretofore required the writing of the word "poison" on poisonous doctrines. The bodies of our people are so valuable that druggists and physicians must be careful to properly label all poisons; why not be as careful to protect the spiritual life of our people from the poisons that kill the soul?

There is a test that is sometimes used to ascertain whether one suspected of mental infirmity is really insane. He is put into a tank of water and told to dip the tank dry while a stream of water flows into the tank. If he has not sense enough to turn off the stream, he is adjudged insane. Can parents justify themselves if, knowing the effect of belief in evolution, they permit irreligious teachers to inject skepticism and infidelity into the minds of their children?

Do bad doctrines corrupt the morals of students? We have a case in point. Mr. Darrow, one of the most distinguished criminal lawyers in our land, was engaged about a year ago in defending two rich men's sons who were on trial for as dastardly a murder as was ever committed. The older one, "Babe" Leopold, was a brilliant student, 19 years old. He was an evolutionist and an atheist. He was also a follower of Nietzsche, whose books he had devoured and whose philosophy he had adopted. Mr. Darrow made a plea for him, based upon the influence that Nietzsche's philosophy had exerted upon the boy's mind. Here are extracts from his speech:

Babe took to philosophy.... He grew up in this way; he became enamored of the philosophy of Nietzsche. Your honor, I have read almost everything that Nietzsche ever wrote. A man of wonderful intellect; the most original philosopher of the last century. A man who made a deeper imprint on philosophy than any other man within a hundred years, whether right or wrong. More books have been written about him than probably all the rest of the philosophers in a hundred years. More college professors have talked about him. In a way, he has reached more people, and still he has been a philosopher of what we might call the intellectual cult.

He wrote one book called *Beyond Good and Evil*, which was a criticism of all moral precepts, as we understand them, and a treatise that the intelligent man was beyond good and evil, that the laws for good and the laws for evil did not apply to anybody who approached the superman. He wrote on the will to power.

I have just made a few short extracts from Nietzsche that show the things that he (Leopold) has read, and these are short and almost taken at random. It is not how this would affect you. It is not how it would affect me. The question is how it would affect the impressionable, visionary, dreamy mind of a boy—a boy who should never have seen it—too early for him.

Mr. Bryan quotes from Nietzsche's books

Quotations from Nietzsche:

Why so soft, oh, my brethren? Why so soft, so unresisting and yielding? Why is there so much disavowal and abnegation in your hearts? Why is there so little fate in your looks? For all creators are hard and it must seem blessedness unto you to press your hands upon millenniums and upon wax. This new table, oh, my brethren I put over you: Become hard. To be obsessed by moral consideration presupposes a very low grade of intellect. We should substitute for morality the will to our own end, and consequently to the means to accomplish that. A great man, a man whom nature has built up and invented in a grand style, is colder, harder, less cautious and more free from the fear of public opinion. He does not possess the virtues which are compatible with respectability, with being respected,

nor any of those things which are counted among the virtues of the herd.

Mr. Darrow says that the superman, a creation of Nietzsche, permeated every college and university in the civilized world.

There is not any university in the world where the professor is not familiar with Nietzsche, not one.... Some believe it and some do not believe it. Some read it as I do and take it as a theory a dream, a vision, mixed with good and bad, but not in any way related to human life. Some take it seriously.... There is not a university in the world of any high standing where the professors do not tell you about Nietzsche and discuss him, or where the books are not there.

If this boy is to blame for this, where did he get it? Is there any blame attached because somebody took Nietzsche's philosophy seriously and fashioned his life upon it? And there is no question in this case but what that is true. Then who is to blame? The university would be more to blame than he is; the scholars of the world would be more to blame than he is. The publishers of the world... are more to blame than he is. Your honor, it is hardly fair to hang a 19-year-old boy for the philosophy that was taught him at the university. It does not meet my ideas of justice and fairness to visit upon his head the philosophy that has been taught by university men for twenty-five years.

Transformed into murderer by philosophy of athiest

In fairness to Mr. Darrow, I think I ought to quote two more paragraphs. After this bold attempt to excuse the student on the ground that he was transformed from a well-meaning youth into a murderer by the philosophy of an atheist, and on the further ground that this philosophy was in the libraries of all the colleges and discussed by the professors—some adopting the philosophy and some rejecting it—on these two grounds he denies that the boy should be held responsible for the taking of human life. He charges that the scholars in the universities were more responsible than the boy, because they furnished such books to the students, and then proceeds to exonerate the universities and the scholars, leaving nobody responsible. Here is Mr. Darrow's language:

Now, I do not want to be misunderstood about this. Even for the sake of saving the lives of my clients, I do not want to be dishonest and tell the court something that I do not honestly think in this case. I do not think that the universities are to blame. I do not think they should be held responsible. I do think, however, that they are too large, and that they should keep a closer watch, if possible, upon the individual.

But you cannot destroy thought because, forsooth, some brain may be deranged by thought. It is the duty of the university as I conceive it, to be the great storehouse of the wisdom of the ages, and to have its students come there and learn and choose. I have no doubt but what it has meant the death of many; but that we cannot help.

This is a damnable philosophy, and yet it is the flower that blooms on the stalk of evolution. Mr. Darrow thinks the universities are in duty bound to feed out this poisonous stuff to their students, and when the students become stupefied by it and commit murder, neither they nor the university are to blame. I am sure, your honor, and gentlemen of the jury, that you agree with me when I protest against the adoption of any such philosophy in the state of Tennessee. A criminal is not relieved from responsibility merely because he found Nietzsche's philosophy in a library which ought not to contain it. Neither is the university guiltless if it permit corrupting nourishment to be fed to the souls that are entrusted to it. But, go a step farther, would the state

be blameless if it permitted the universities under its control to be turned into training schools for murderers? When you get back to the root of this question, you will find the legislature not only had a right to protect the students from the evolutionary hypothesis but was in duty bound to do so.

While on this subject, let me call your attention to another proposition embodied in Mr. Darrow's speech. He said that Dickey Loeb, the younger boy, had read trashy novels, of the blood and thunder sort. He even went so far as to commend an Illinois statute which forbids minors reading stories of crime. Here is what Mr. Darrow said: "We have a statute in this state, passed only last year, if I recall it, which forbids minors reading stories of crime. Why? There is only one reason; because the legislature its wisdom thought it would have a tendency to produce these thoughts and this life in the boys who read them."

If Illinois can protect her boys, why cannot this state protect the boys of Tennessee? Are the boys of Illinois any more precious than yours?

Quotes Darrow's plea for Richard Loeb's life

But to return to the philosophy of an evolutionist. Mr. Darrow said: "I say to you seriously that the parents of Dickey Loeb are more responsible than he, and yet few boys had better parents." Again, he says, "I know that one of two things happened to this boy: that this terrible crime was inherent in his organism, and came from some ancestor, or that it came through his education and his training after he was born" He thinks the boy was not responsible for anything; his guilt was due, according to his philosophy, either to heredity or to environment.

But let me complete Mr. Darrow's philosophy based on evolution. He says: "I do not know what remote ancestor may have sent down the seed that corrupted him, and I do not know through how many ancestors it may have passed until it reached Dickey Loeb. All I know is, it is true, and there is not a biologist in the world who will not say I am right."

Psychologists who build upon the evolutionary hypothesis teach that man is nothing but a bundle of characteristics inherited from brute ancestors. That is the philosophy which Mr. Darrow applied in this celebrated criminal case. Some "remote ancestor"—he does not know how remote—"sent down the seed that corrupted him." You cannot punish the ancestor—he is not only dead but, according to the evolutionists, he was a brute and may have lived a million years ago. And he says that all the biologists agree with him. No wonder so small a percent of the biologists, according to Leuba, believe in a personal God.

This is the quintessence of evolution, distilled for us by one who follows that doctrine to its logical conclusion. Analyze this dogma of darkness and death. Evolutionists say that back in the twilight of life a beast, name and nature unknown, planted a murderous seed and that the impulse that originated in that seed throbs forever in the blood of the brute's descendants, inspiring killings innumerable, for which the murderers are not responsible because coerced by a fate fixed by the laws of heredity! It is an insult to reason and shocks the heart. That doctrine is as deadly as leprosy; it may aid a lawyer in a criminal case, but it would, if generally adopted, destroy all sense of responsibility and menace the morals of the world. A brute, they say, can predestine a man to crime, and yet they deny that God incarnate in the flesh can release a human being from this bondage or save him from ancestral sins. No more repulsive doctrine was ever proclaimed by any man; if all the biologists of the world teach this doctrine as Mr. Darrow says they do, then may heaven defend the youth of our land from their impious babblings.

Minds are diverted to trifling speculation

Our third indictment against evolution is that it diverts attention from pressing problems of great importance to trifling speculation. While one evolutionist is trying to imagine what

happened in the dim past, another is trying to pry open the door of the distant future. One recently grew eloquent over ancient worms, and another predicted that 75,000 years hence every one will be bald and toothless. Both those who endeavor to clothe our remote ancestors with hair and those who endeavor to remove the hair from the heads of our remote descendants ignore the present with its imperative demands. The science of "How to Live" is the most important of all the sciences. It is desirable to know the physical sciences, but it is necessary to know how to live. Christians desire that their children shall be taught all the sciences, but they do not want them to lose sight of the Rock of Ages while they study the age of rocks; neither do they desire them to become so absorbed in measuring the distance between the stars that they will forget Him who holds the stars in His hand.

While not more than two percent of our population are college graduates, these, because of enlarged powers, need a "heavenly vision" even more than those less learned, both for their own restraint and to assure society that their enlarged powers will be used for the benefit of society and not against the public welfare.

Evolution is deadening the spiritual life of a multitude of students. Christians do not desire less education, but they desire that religion shall be entwined with learning so that our boys and girls will return from college with their hearts aflame with love of God and love of fellow men, and prepared to lead in altruistic work that the world so sorely needs. The cry in the business world, in the industrial world, in the professional world, in the political world—even in the religious world—is for consecrated talents; for ability plus a passion for service.

Our fourth indictment against the evolutionary hypothesis is that, by paralyzing the hope of reform, it discourages those who labor for the improvement of man's condition. Every upward-looking man or woman seeks to lift the level upon which mankind stands, and they trust that they will see beneficent changes during the brief span of their own lives. Evolution chills their enthusiasm by substituting aeons for years. It obscures all beginnings in the mists of endless ages. It is represented as a cold and heartless process, beginning with time and ending in eternity, and acting so slowly that even the rocks can not preserve a record of the imaginary changes through which it is credited with having carried an original germ of life that appeared sometime from somewhere. Its only program for man is scientific breeding, a system under which a few supposedly superior intellects, self-appointed, would direct the mating and the movements of the mass of mankind—an impossible system! Evolution, disputing the miracle, and ignoring the spiritual in life, has no place for the regeneration of the individual. It recognizes no cry of repentance and scoffs at the doctrine that one can be born again.

Prodigal son story contradicts evolution

Evolution is thus the intolerant and unrelenting enemy of the only process that can redeem society through the redemption of the individual. An evolutionist would never write such a story as the Prodigal Son; it contradicts the whole theory of evolution. The two Sons inherited from the same parents and, through their parents, from the same ancestors, proximate and remote. And these sons were reared at the same fireside and were surrounded by the same environment during all the days of their youth; and yet they were different. If Mr. Darrow is correct in the theory applied to Loeb (namely, that his crime was due either to inheritance or to environment), how will he explain the difference between the elder brother and the wayward son? The evolutionist may understand from observation, if not by experience, even though he cannot explain, why one of these boys was guilty of every immorality, squandered the money that the father had laboriously earned, and brought disgrace upon the family name; but his theory does not explain why a wicked young man underwent a change of heart, confessed his sin, and begged for forgiveness. And because the evolutionist can not understand this fact, one of the most important in the human life,

he cannot understand the infinite love of the heavenly Father, who stands ready to welcome home any repentant sinner, no matter how far he has wandered, how often he has fallen, or how deep he has sunk in sin.

Your honor has quoted from a wonderful poem written by a great Tennessee poet, Walter Malone. I venture to quote another stanza which puts into exquisite language the new opportunity which a merciful God gives to every one who will turn from sin to righteousness.

Though deep in mire, wring not your hands and weep;
I lend my arm to all who say, "I can."
No shame-faced outcast ever sank so deep
But he might rise and be again a man.

There are no lines like these in all that evolutionists have ever written. Darwin says that science has nothing to do with the Christ who taught the spirit embodied in the words of Walter Malone, and yet this spirit is the only hope of human progress. A heart can be changed in the twinkling of an eye and a change in the life follows a change in the heart. If one heart can be changed, it is possible that many hearts can be changed, and if many hearts can be changed, it is possible that all hearts can be changed—that a world can be born in a day. It is this fact that inspires all who labor for man's betterment. It is because Christians believe in individual regeneration and in the regeneration of society through the regeneration of individuals that they pray, "Thy kingdom come, Thy will be done in earth as it is in heaven." Evolution makes a mockery of the Lord's Prayer!

Evolution only defers hope of all mankind

To interpret the words to mean that the improvement desired must come slowly through unfolding ages—a process with which each generation could have little to do—is to defer hope, and hope deferred maketh the heart sick.

Our fifth indictment of the evolutionary hypothesis is that, if taken seriously and made the basis of a philosophy of life, it would eliminate love and carry man back to a struggle of tooth and claw. The Christians who have allowed themselves to be deceived into believing that evolution is a beneficent, or even a rational process, have been associating with those who either do not understand its implications or dare not avow their knowledge of these implications. Let me give you some authority on this subject. I will begin with Darwin, the high priest of evolution, to whom evolutionists bow. On pages 149 and 150, in *The Descent of Man*, already referred to, he says:

With savages, the weak in body or mind are soon eliminated; and those that survive commonly exhibit a vigorous state of health. We civilized men, on the other hand, do our utmost to check the process of elimination; we build asylums for the imbecile, the maimed and the sick; we institute poor laws; and our medical men exert their utmost skill to save the life of everyone to the last moment. There is reason to believe that vaccination has preserved thousands who, from a weak constitution, would formerly have succumbed to smallpox. Thus the weak members of civilized society propagate their kind. No one who has attended to the breeding of domestic animals will doubt that this must be highly injurious to the race of man. It is surprising how soon a want of care, or care wrongly directed, leads to the degeneration of a domestic race; but, excepting in the case of man himself, hardly anyone is so ignorant as to allow his worst animals to breed.

The aid which we feel impelled to give to the helpless is mainly an incidental result of the instinct of sympathy, which was originally acquired as part of the social instincts, but subsequently rendered in the manner previously indicated

more tender and more widely diffused. Nor could we check our sympathy, even at the urging of hard reason, without deterioration in the noblest part of our nature.... We must, therefore, bear the undoubtedly bad effects of the weak surviving and propagating their kind.

Barbarous sentiment expressed by Darwin

Darwin reveals the barbarous sentiment that runs through evolution and dwarfs the moral nature of those who become obsessed with it. Let us analyze the quotation just given. Darwin speaks with approval of the savage custom of eliminating the weak so that only the strong will survive and complains that "We civilized men do our utmost to check the process of elimination." How inhuman such a doctrine as this! He thinks it injurious to "build asylums for the imbecile, the maimed, and the sick," or to care for the poor. Even the medical men come in for criticism because they "exert their utmost skill to save the life of everyone to the last moment." And then note his hostility to vaccination, because it has "preserved thousands who, from a weak constitution would, but for vaccination, have succumbed to smallpox!" All of the sympathetic activities of civilized society are condemned because they enable "the weak members... [to] propagate their kind." Then he drags mankind down to the level of the brute, and compares the freedom given to man unfavorably with the restraint that we put on barnyard beasts.

The second paragraph of the above quotation shows that his kindly heart rebelled against the cruelty of his own doctrine. He says that we "feel impelled to give to the helpless," although he traces it to a sympathy which he thinks is developed by evolution; he even admits that we could not check this sympathy "even at the urging of hard reason, without deterioration of the noblest part of our nature." "We must therefore bear" what he regards as "the undoubtedly bad effects of the weak surviving and propagating their kind." Could any doctrine be more destructive of civilization? And what a commentary on evolution! He wants us to believe that evolution develops a human sympathy that finally becomes so tender that it repudiates the law that created it and thus invites a return to a level where the extinguishing of pity and sympathy will permit the brutal instincts to again do their progressive (?) work.

Darrow says Nietzsche was gloriously wrong

Let no one think that this acceptance of barbarism as the basic principle of evolution died with Darwin. Within three years a book has appeared whose author is even more frankly brutal than Darwin. The book is entitled *The New Decalogue of Science* and has attracted wide attention. One of our most reputable magazines has recently printed an article by him defining the religion of a scientist. In his preface he acknowledges indebtedness to twenty-one prominent scientists and educators, nearly all of them "doctors" and "professors." One of them, who has recently been elevated to the head of a great state university, read the manuscript over twice "and made many invaluable suggestions." The author describes Nietzsche who, according to Mr. Darrow, made a murderer out of Babe Leopold, as "the bravest soul since Jesus." He admits that Nietzsche was "gloriously wrong," not "certainly," but "perhaps," "in many details of technical knowledge," but he affirms that Nietzsche was "gloriously right in his fearless questioning of the universe and of his own soul."

In another place the author says, "Most of our morals today are jungle products," and then he affirms that "it would be safer, biologically, if they were more so now." After these two samples of his views, you will not be surprised when I read you the following (see page 34):

Evolution is a bloody business, but civilization tries to make it a pink tea.
Barbarism is the only process by which man has ever organically progressed, and civilization is the only process by which he has ever organically declined.

Civilization is the most dangerous enterprise upon which man ever set out. For when you take man out of the bloody, brutal, but beneficent hand of natural selection you place him at once in the soft, perfumed, daintily gloved, but far more dangerous hand of artificial selection. And, unless you call science to your aid and make this artificial selection as efficient as the rude methods of nature, you bungle the whole task.

This aspect of evolution may amaze some of the ministers who have not been admitted to the inner circle of the iconoclasts whose theories menace all the ideals of civilized society. Do these ministers know that "Evolution is a bloody business"? Do they know that "Barbarism is the only process by which man has ever organically progressed"? And that "civilization is the only process by which he has ever organically declined"? Do they know that "the bloody, brutal hand of natural selection" is "beneficent"? And that the "artificial selection" found in civilization is "dangerous"? What shall we think of the distinguished educators and scientists who read the manuscript before publication and did not protest against this pagan doctrine?

To show that this is a world-wide matter, I now quote from a book issued from the press in 1918, seven years ago. The title of the book is *The Science of Power*, and its author, Benjamin Kidd, being an Englishman, could not have any national prejudice against Darwin. On pages 46 and 47, we find Kidd's interpretation of evolution:

Darwin's presentation of the evolution of the world as the product of natural selection in never-ceasing war—as a product, that is to say, of a struggle in which the individual efficient in the fight for his own interests was always the winning type—touched the profoundest depths of the psychology of the West. The idea seemed to present the whole order of progress in the world as the result of a purely mechanical and materialistic process resting on force. In so doing it was a conception which reached the springs of that heredity born of the unmeasured ages of conquest out of which the western mind has come. Within half a century *The Origin of Species* had become the Bible of the doctrine of the omnipotence of force.

Kidd goes so far as to charge that "Nietzsche's teaching represented the interpretation of the popular Darwinism delivered with the fury and intensity of genius." And Nietzsche, be it remembered, denounced Christianity as the "doctrine of the degenerate," and democracy as "the refuge of weaklings."

Kidd says that Nietzsche gave Germany the doctrine of Darwin's efficient animal in the voice of his superman, and that Bernhardt and the military textbooks in due time gave Germany the doctrine of the superman translated into the national policy of the superstate aiming at world power. (Page 67.) And what else but the spirit of evolution can account for the popularity of the selfish doctrine, "Each one for himself, and the devil take the hindmost," that threatens the very existence of the doctrine of brotherhood.

In 1900—twenty-five years ago—while an international peace congress was in session in Paris, the following editorial appeared in *L'Univers*:

The spirit of peace has fled the earth because evolution has taken possession of it. The plea for peace in past years has been inspired by faith in the divine nature and the divine origin of man; men were then looked upon as children of one Father, and war, therefore, was fratricide. But now that men are looked upon as children of apes, what matters it whether they are slaughtered or not?

When there is poison in the blood, no one knows on what part of the body it will break out, but we can be sure that it will continue to break out until the blood is purified. One of the leading universities of the South (I love the state too well to mention its name) publishes a

monthly magazine entitled *Journal of Social Forces*. In the January issue of this year, a contributor has a lengthy article on "Sociology and Ethics," in the course of which he says:

No attempt will be made to take up the matter of the good or evil of sexual intercourse among humans aside from the matter of conscious procreation, but as an historian, it might be worth while to ask the exponents of the impurity complex to explain the fact that, without exception, the great periods of cultural efflorescence have been those characterized by a large amount of freedom in sex-relations, and that those of the greatest cultural degradation and decline have been accompanied with greater sex repression and purity.

No one charges or suspects that all or any large percentage of the advocates of evolution sympathize with this loathsome application of evolution to social life, but it is worthwhile to inquire why those in charge of a great institution of learning allow such filth to be poured out for the stirring of the passions of its students.

Just one more quotation! *The Southeastern Christian Advocate* of June 25, 1925, quotes five eminent college men of Great Britain as joining in an answer to the question, "Will civilization survive?" Their reply is that:

The greatest danger menacing our civilization is the abuse of the achievements of science. Mastery over the forces of nature has endowed the twentieth-century man with a power which he is not fit to exercise. Unless the development of morality catches up with the development of technique, humanity is bound to destroy itself.

Can any Christian remain indifferent? Science needs religion to direct its energies and to inspire with lofty purpose those who employ the forces that are unloosened by science. Evolution is at war with religion because religion is supernatural; it is, therefore, the relentless foe of Christianity, which is a revealed religion.

Let us, then, hear the conclusion of the whole matter. Science is a magnificent material force, but it is not a teacher of morals. It can perfect machinery, but it adds no moral restraints to protect society from the misuse of the machine. It can also build gigantic intellectual ships, but it constructs no moral rudders for the control of storm-tossed human vessels. It not only fails to supply the spiritual element needed, but some of its unproven hypotheses rob the ship of its compass and endanger its cargo.

Science has made war more terrible than ever

In war, science has proven itself an evil genius; it has made war more terrible than it ever was before. Man used to be content to slaughter his fellow men on a single plane—the earth's surface. Science has taught him to go down into the water and shoot up from below and to go up into the clouds and shoot down from above, thus making the battlefield three times as bloody as it was before; but science does not teach brotherly love. Science has made war so hellish that civilization was about to commit suicide; and now we are told that newly discovered instruments of destruction will make the cruelties of the late war seem trivial in comparison with the cruelties of wars that may come in the future. If civilization is to be saved from the wreckage threatened by intelligence not consecrated by love, it must be saved by the moral code of the meek and lowly Nazarene. His teachings, and His teachings alone, can solve the problems that vex the heart and perplex the world.

The world needs a Savior more than it ever did before, and there is only "one Name under heaven given among men whereby we must be saved." It is this Name that evolution degrades, for, carried to its logical conclusion, it robs Christ of the glory of a virgin birth, of the majesty of His deity and mission and of the triumph of His resurrection. It also disputes the doctrine of the atonement.

It is for the jury to determine whether this attack upon the Christian religion shall be permitted in the public schools of Tennessee by teachers employed by the state and paid out of the public treasury. This case is no longer local, the defendant ceases to play an important part. The case has assumed the proportions of a battle royal between unbelief that attempts to speak through so-called science and the defenders of the Christian faith, speaking through the legislators of Tennessee. It is again a choice between God and Baal; it is also a renewal of the issue in Pilate's court. In that historic trial—the greatest in history—force, impersonated by Pilate, occupied the throne. Behind it was the Roman government, mistress of the world, and behind the Roman government were the legions of Rome. Before Pilate stood Christ, the Apostle of Love. Force triumphed; they nailed Him to the tree and those who stood around mocked and jeered and said, "He is dead." But from that day the power of Caesar waned and the power of Christ increased. In a few centuries the Roman government was gone and its legions forgotten; while the crucified Lord has become the greatest fact in history and the growing figure of all time.

Again force and love meet face to face, and the question, "What shall I do with Jesus?" must be answered. A bloody, brutal doctrine—Evolution—demands, as the rabble did nineteen hundred years ago, that He be crucified. That cannot be the answer of this jury representing a Christian state and sworn to uphold the laws of Tennessee. Your answer will be heard throughout the world; it is eagerly awaited by a praying multitude. If the law is nullified, there will be rejoicing wherever God is repudiated, the Savior scoffed at and the Bible ridiculed. Every unbeliever of every kind and degree will be happy. If, on the other hand, the law is upheld and the religion of the school children protected, millions of Christians will call you blessed and, with hearts full of gratitude to God, will sing again that grand old song of triumph:

Faith of our fathers, living still,
In spite of dungeon, fire and sword;
O how our hearts beat high with joy
Whene'er we hear that glorious word—
Faith of our fathers—holy faith;
We will be true to thee till death!

Scopes Trial Chronology

By Richard M. Cornelius (*updated for the 2011 edition by Tom Davis*)

November 24, 1859-Charles Darwin publishes *The Origin of Species*.

1871-Darwin publishes *The Descent of Man*.

1875-1925-Rise of the American Fundamentalist movement, which believes in the divine inspiration and authority of the Bible; the deity, virgin birth, miracles, and physical resurrection of Christ; the substitutionary death of Christ for the sins of mankind; the return of Christ to earth to reign.

1879-Julius Wellhausen publishes *Prolegomena to the History of Israel*, which questions the authorship, inspiration, inerrancy, and authority of the Bible.

August 3, 1900-John Thomas Scopes is born in Paducah, Kentucky.

1904-William Jennings Bryan delivers "The Prince of Peace," in which he first questions the theory of evolution.

1916-James H. Leuba publishes *The Belief in God and Immortality*, a survey of college students and faculty showing a serious increase of disbelief.

1917-Vernon Kellogg publishes *Headquarters Nights*, reports of the negative influence of Darwinian natural selection on World War I German officers.

1918-Benjamin Kidd publishes *The Science of Power*, tracing the negative effects of the ideas of Darwin and Nietzsche on World War I German military thought.

1920-Having read Leuba, Kellogg, and Kidd (above), William Jennings Bryan greatly increases his opposition to evolutionary theory, especially its Social Darwinism ramifications.

January 24, 1924-At the invitation of attorney W. B. Marr, Bryan speaks in Nashville, Tennessee, to a large and prestigious audience on "Is the Bible True?" and focuses primarily on the evolution question. Copies of the lecture are widely distributed throughout the state and are credited for influencing the drafting of two anti-evolution bills. When the bills are being discussed, W. B. Man sends copies of Bryan's speech to the legislators.

January 27, 1925-The Tennessee Legislature House of Representatives passes the Butler Bill by 71 to 5. Bryan is consulted about the bill and advises that the fine be deleted, but his advice is not heeded.

March 13, 1925-The Tennessee Senate passes the Butler Bill by 24 to 6.

March 21, 1925-Governor Austin Peay, who had heard Bryan's speech in Nashville on January 24, 1924, signs into law the Butler Bill (Chapter 27, House Bill 185).

May 1, 1925-The school term ends in Rhea County.

May 1925-The American Civil Liberties Union (ACLU) of New York sends a notice to major Tennessee newspapers, searching for a teacher to test the constitutionality of the new anti-evolution law.

May 4, 1925-The above-mentioned ACLU notice is published by the *Chattanooga Daily Times*, is seen by George W. Rappleyea (engineer/manager of the ailing Cumberland Coal and Iron Co. in Dayton), who calls it to the attention of Frank Earle Robinson, chairman of the Rhea County School Board.

May 5, 1925-Rappleyea and Robinson ask the following people to come to Robinson's Drug Store: Superintendent of Schools Walter White, lawyer Wallace C. Haggard, city attorneys Herbert E. and Sue K. Hicks. All decide to do a test case. John T. Scopes is persuaded to help. A warrant is sworn out, and the press and the ACLU are notified.

May 12, 1925-Bryan accepts WCFA invitation to represent them.

May 16, 1925-Clarence Darrow and Dudley Field Malone volunteer their services to Dr. Neal and are accepted.

May 20, 1925-Bryan accepts Dayton's offer to assist prosecution.

May 25, 1925-Scopes is indicted by a grand jury.

July 10, 1925-The trial of the *State of Tennessee vs. John Thomas Scopes* begins.

July 12, 1925-F. E. Robinson and Walter White get the idea for Bryan University.

July 21, 1925-Scopes is found guilty and fined \$100 by Judge John T. Raulston.

July 26, 1925-Bryan dies in Dayton.

September 1925-The Bryan Memorial Association is organized as a national committee to found William Jennings Bryan University.

May 31-June 1, 1926-The Tennessee Supreme Court hears Scopes's appeal case.

November 5, 1926-A crowd of several thousand watch Tennessee Governor Austin Peay inaugurate the construction of Bryan University.

January 17, 1927-The Tennessee Supreme Court upholds the constitutionality of the anti-evolution law but reverses Scopes's conviction because the judge and not the jury imposed the fine. The court advises that a *nolle prosequi* (do not prosecute) status be entered.

September 30, 1930-William Jennings Bryan Memorial University begins classes in the former Rhea Central High School building where John T. Scopes taught.

May 17, 1967-The 1925 Tennessee anti-evolution law is repealed.

November 12, 1968-In *Epperson v. Arkansas* the U. S. Supreme Court rules that the Arkansas anti-evolution law is unconstitutional.

1970-In *Smith v. State* the Mississippi Supreme Court strikes down the state anti-evolution statute for violating the First Amendment.

April 30, 1973-Tennessee passes a law mandating that textbooks must label discussions of origins as theories and shall give equal time to various theories, including the Genesis account.

1975-In *Daniel v. Waters* the Sixth Circuit Court of Appeals declares the 1973 equal-time law unconstitutional.

January 5, 1982-In *McLean v. Arkansas Board of Education*, the U.S. Supreme Court states that the Arkansas law requiring equal-time for creation science and evolution science is unconstitutional.

June 19, 1987-In *Edwards v. Aguillard*, the U.S. Supreme Court declares that Louisiana's balanced treatment law for creation science and evolution science is unconstitutional.

July 1988-Bryan College and the Dayton community establish an annual Scopes Trial Festival, which features a documentary play based on the trial transcript.

1990-92-In *Webster v. New Lenox School District*, the Seventh Circuit Court of Appeals rules that Webster not be allowed to teach creation science.

1994-In *John E. Peloza v. Capistrano Unified School District*, the Ninth Circuit of Appeals declares that teaching evolution does not violate the Establishment of Religion Clause or a teacher's First Amendment rights.

March 1996-The Tennessee legislature rejects a bill 20 to 13 that would have required that evolution be taught as a theory.

August 13, 1999-In *Freiler v. Tangipahoa*, the Fifth Circuit Court of Appeals states it is unconstitutional to require a teacher to read a disclaimer regarding evolution.

August 11, 1999-The Kansas Board of Education votes 6 to 4 to accept a compromise version of science standards encouraging more freedom to engage in critical thinking and providing more flexibility in how evolution would be taught.

December 20, 2005- U.S. District Court Judge John E. Jones ruled in *Kitzmiller v. Dover Area School District*, that Intelligent Design "is a religious view...and not a scientific theory" and enjoined implementing a policy recommending students consider alternatives to the Darwinian theory.



Bryan College

During the Scopes Evolution Trial in 1925, William Jennings Bryan expressed the wish that a school might be established in Dayton to teach truth from a Biblical perspective. Following his death on July 26, 1925, a national memorial association was formed to establish such an institution in Bryan's honor.

William Jennings Bryan University (in 1958 it was designated William Jennings Bryan College, and the name was shortened to Bryan College in 1993) was chartered in 1930 and admitted its first class in the fall of that year. Its stated purpose was, and is, to provide "for the higher education of men and women under auspices distinctly Christian and spiritual."

Bryan is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to award the associate and baccalaureate degrees. It is an independent, four-year Christian liberal arts institution offering Associates' and Bachelors' degrees in 18 areas, the Master of Business Administration degree and the Master of Arts in Christian Studies degree. Eighty percent of the faculty holds earned doctoral degrees.

Bryan College is founded upon the belief that God is the author of truth; that He has revealed Himself to mankind through nature, conscience, the Bible and Jesus Christ; that it is His will for man to come to a knowledge of truth; and that an integrated study of the arts and sciences and the Bible, with a proper emphasis on the spiritual, mental, social and physical aspects of life, will lead to the balanced development of the whole person.

The mission statement of Bryan College is "Educating students to become servants of Christ to make a difference in today's world." The college seeks to assist in the personal growth and development of qualified students by providing an education based on an integrated understanding of the Bible and the arts and sciences.

For further information, contact Bryan College, P.O. Box 7000, Dayton, TN 37321-7000; phone 423-775-2041, fax 423-775-7330, or visit our website at www.bryan.edu.

